

# ELECTION LAWS

OF THE

State of Montana

1921

Arranged and Compiled from  
Revised Codes of Montana  
of 1921

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Published by Secretary of State.

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TO WILHELM  
AMERIQUE

To the Electors of the State of Montana:

Under Section 807, Revised Codes of the State of Montana, "it is the duty of the Secretary of State to cause to be published, in pamphlet form, a sufficient number of copies of this title, and such other provisions of law as bear upon the subject of election, and to transmit the proper number to each County Clerk, whose duty it is to furnish each election officer in his county with one of such copies." In obedience to the above command, I have caused to be prepared what is believed to be a complete compilation of all laws dealing with State, County, City and School District elections found in the Revised Codes of 1921.

CHAS. T. STEWART,  
Secretary of State.

M144100



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# CONSTITUTION.

## ARTICLE III.

### A Declaration of Rights.

§ 2. The people of the State have the sole and exclusive right of governing themselves, as a free, sovereign and independent State, and to alter and abolish their constitution and form of government, whenever they may deem it necessary to their safety and happiness, provided such change be not repugnant to the constitution of the United States.

§ 5. All elections shall be free and open, and no power civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.

## ARTICLE IX.

As amended by Chapter 1, Laws 1913, known as Woman's Suffrage Amendment, approved at election November, 1914.

Section 1. All elections by the people shall be by ballot.

Section 2. Every person of the age of twenty-one years or over, possessing the following qualifications, shall be entitled to vote at all general elections and for all officers that now are, or hereafter may be, elective by the people and upon all questions which may be submitted to the vote of the people: First, he shall be a citizen of the United States; second, he shall have resided in this State one year immediately preceding the election at which he offers to vote, and in the town, county or precinct such time as may be prescribed by law; provided, first, that no person convicted of felony shall have the right to vote unless he has been pardoned; provided, second, that nothing herein contained shall be construed to deprive any person of the right to vote who has such right at the time of the adoption of this constitution; provided, that after the expiration of five years from the time of the adoption of this constitution, no person except citizens of the United States shall have the right to vote.

Section 3. For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the State, or of the United States, nor while engaged in the navigation of the waters of the State, or of the United States, nor while a student at any institution of learning, nor while kept at any alms-house or other asylum at the public expense, nor while confined in any public prison.

Section 4. Electors shall in all cases, except treason, felony or breach of peace, be privileged from arrest during their attendance at elections and in going to and returning therefrom.

Section 5. No elector shall be obliged to perform military duty on the days of election, except in time of war or public danger.

Section 6. No soldier, seaman or marine in the army or navy of the United States shall be deemed a resident of this State in consequence of being stationed at any military or naval place within the same.

Section 7. No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United

States, and who shall not have resided in this State at least one year before his election or appointment.

Section 8. No idiot or insane person shall be entitled to vote at any election in this State.

Section 9. The Legislative Assembly shall have the power to pass a registration and such other laws as may be necessary to secure the purity of elections and guard against abuses of the elective franchise.

Section 10. Women shall be eligible to hold the office of County Superintendent of Schools or any school district office and shall have the right to vote at any school district election.

Section 11. Any person qualified to vote at general elections and for State Officers in this State shall be eligible to any office therein except as otherwise provided in this constitution, and subject to such additional qualifications as may be prescribed by the Legislative Assembly for city offices and offices hereafter created.

Section 12. Upon all questions submitted to the vote of the taxpayer of the State, or any political subdivision thereof, women who are taxpayers and possessed of the qualifications for the right of suffrage required of men by this constitution shall equally, with men, have the right to vote.

Section 13. In all elections held by the people under this constitution, the person or persons who shall receive the highest number of legal votes shall be declared elected.

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### TIME OF HOLDING ELECTIONS.

Section 531. There must be held throughout the State, on the first Tuesday after the first Monday of November, in the year eighteen hundred and ninety-four, and in every second year thereafter, an election to be known as the general election.

Section 532. Special elections are such as are held to supply vacancies in any office, and are held at such times as may be designated by the proper officer or authority. The Board of County Commissioners shall be authorized to call a special election at any time for the purpose of submitting to the qualified electors of the county a proposition to raise money for any public improvement desired to be made in the county.

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### ELECTION PROCLAMATIONS.

Section 533. At least sixty days before a general election, and whenever he orders a special election to fill a vacancy in the office of State Senator or member of the House of Representatives at least ten days before such special election, the Governor must issue an election proclamation, under his hand and the great seal of the State, and transmit copies thereof to the Boards of Commissioners of the counties in which such elections are to be held.

Section 534. Such proclamation must contain:

1. A statement of the time of election, and the offices to be filled.

2. An offer of rewards in the following form: "And I do hereby offer a reward of one hundred dollars for the arrest and conviction

of any person violating any of the provisions of Sections 10747 to 10772 of the Penal Code. Such rewards to be paid until the total amount hereafter expended for the purpose reaches the sum of five thousand dollars."

Section 535. The Board of County Commissioners, upon the receipt of such proclamation, may, in the case of general or special elections, cause a copy of the same to be published in some newspaper printed in the county, if any, and to be posted at each place of election at least ten days before the election; and in case of special elections to fill a vacancy in the office of State Senator or member of the House of Representatives, the Board of County Commissioners, upon receipt of such proclamation, may, in their discretion, cause a copy of the same to be published or posted as hereinbefore provided, except that such publication or posting need not be made for a longer period than five days before such election.

Section 536. Whenever a special election is ordered by the Board of County Commissioners, they must issue an election proclamation, containing the statement provided for in Subdivision one of Sec. 534, and must publish and post it in the same manner as proclamations issued by the Governor.

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## PUBLICATION OF PROPOSED CONSTITUTIONAL AMENDMENTS OR OTHER QUESTIONS.

Section 537. Whenever a proposed constitution, or constitutional amendment, or other question, is submitted to the people of the State for popular vote, the Secretary of State must duly, and not less than thirty days before the election, certify the same to the Clerk of each county in the State, and the Clerk of each county must cause to be published in one newspaper in the county a copy of the proposed question to be submitted to the people of the State, once a week for three successive weeks; one of such publications in each of said newspapers must be made upon the last day upon which such newspaper is issued before election.

Section 538. Questions to be submitted to the people of the county or municipality must be advertised by publication in at least one newspaper within the county or municipality once a week for two successive weeks, and one of such publications in such newspaper must be upon the last day upon which such newspaper is issued before the election.

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## QUALIFICATIONS AND DISABILITIES OF ELECTORS.

Section 539. All elections by the people shall be by ballot.

Section 540. Every person of the age of twenty-one years or over, possessing the following qualifications, if his name is registered as required by law, is entitled to vote at all general and special elections and for all officers that now are, or hereafter may be, elective by the people, and upon all questions which may be submitted to the vote of the people: First, he must be a citizen of the United States; second, he must have resided in the State one year and in the county thirty days immediately preceding the election at which he offers to vote. No person convicted of felony has the right to vote unless he has

been pardoned. Nothing in this section contained shall be construed to deprive any person of the right to vote who has had such right at the time of the adoption of the State constitution. After the expiration of five years from the time of the adoption of the State constitution, no persons except citizens of the United States have a right to vote.

Section 541. Electors must in all cases, except treason, felony, or breach of the peace, be provided from arrest during their attendance at elections, and in going to and returning therefrom.

Section 542. No elector is required to perform military duty on the days of election, except in times of war or public danger.

Section 543. No idiot or insane person is entitled to vote at any election in this State.

Section 544. The payment of a tax upon property by any person assessed therefor on a county or city assessment roll next preceding the election at which a question is to be submitted to the vote of the taxpayers of the State, or to the vote of the taxpayers of such county or city or any subdivision thereof, constitutes such person a taxpayer at such election.

Section 545. The territorial unit for the conduct of elections shall be the election precinct. The Board of County Commissioners of each county shall establish a convenient number of election precincts therein, having reference to equalizing the number of electors in the several precincts as nearly as possible. Precinct boundaries shall conform to the boundaries of the wards of incorporated cities or towns and to the boundaries of school districts of the first class only, provided that any ward or school district may be divided into two or more precincts.

Section 546. The Board of County Commissioners may change the boundaries of precincts and create new or consolidate established precincts, but no precinct shall be changed or created between the first day of January and the first day of December in any year during which a general election is to be held within the State of Montana. All changes, alterations or modifications in precinct boundaries must be certified to the County Clerk within three days after the order making same shall have been made. All election precincts shall be designated by numbers, but may also be designated by distinctive names in addition to such numbers.

Section 547. The city council of all incorporated cities and towns within the State of Montana shall certify to the County Clerk and ex-officio Registrar of the county within which such city or town is situated a description of the boundaries of the several wards within such city or town and in like manner shall certify any changes or alterations in such boundaries, that may from time to time be made, within ten days after the same are made.

Section 548. The County Surveyor of each county must within ten days after the Board of County Commissioners shall have established or changed the boundaries of any election precincts within such county deliver to the County Clerk of the county a map correctly showing the boundaries of all precincts and school districts within the county as then existing.

Section 549. The city council of any incorporated city or town shall within ten days after the ward lines of such city or town shall have been established or changed, deliver or cause to be delivered to the County Clerk of said county a map correctly showing the boundaries

of the wards within such city or town as then existing; such may shall also show all streets, avenues and alleys by name and the respective wards by numbers, and with the ward boundaries clearly defined thereon.

Section 550. The Board must, at the session at which judges of election are appointed, make an order designating the house or place within the precinct where the election must be held.

Section 551. If the Board fails to designate the house or place for holding the election, or if it cannot be held at the house or place designated, the judges of election, or a majority of those acting as such in the precinct must, two days before the election and by order, under their hand (copies of which they must at once post in three public places in the precinct), designate the house or place.

Section 552. No officer of this State nor of any county shall establish a voting precinct within or at the premises of any Indian agency or trading post.

### REGISTRATION OF ELECTORS.

Section 553. The County Clerk of each county of the State of Montana is hereby declared to be ex-officio County Registrar of such county and shall perform all acts and duties in this Act provided without extra pay or compensation therefor. He shall have the custody of all registration books, cards and papers herein provided for, and the register hereinafter provided for to be kept by said County Clerk is hereby declared to be an official record of the office of the County Clerk of each county.

Section 554. The official register of electors in each county shall be contained in a book designated "register" which book shall be so arranged in precincts and alphabetical divisions suitable to record the full and complete information given by each elector and a card index of which the County Clerk of such county shall at all times have the custody. The cards shall be four by six inches in size, of white calendared stock, and shall be so perforated that all cards in any drawer may be fastened in by a rod passing through such perforations, which rod shall be kept locked except when the Clerk shall be making necessary changes in the register. The registry book herein provided shall be in such form as shall be designated by the Secretary of State of the State of Montana. The registry card shall be substantially in the following form:

(FACE)

STATE OF MONTANA,

County of \_\_\_\_\_

} ss.

Number	Date	Name	Sex
Where born	Age	Height Ft.-In.	Occupation

Naturalized when		Where		
Residence	Post Office	Sec.	Twp.	Rg.
Length of time in		Precinct	Ward	School Dist.
State		County	City	
Date cancelled		Date registered	Disability, if any	
Place where last registered				

STATE OF MONTANA,  
County of..... } ss.

....., being duly sworn, says:  
I am the elector whose name appears on the face of this card; the several statements thereon contained affecting my qualifications as an elector are true; I am able to mark my ballot (or I am unable to mark my ballot by reason of the physical disabilities on this card specified) and I am not registered elsewhere within the State of Montana, and claim no right to vote elsewhere than in the precinct on this card specified, so help me God.

..... Subscribed and sworn to before me this ..... day of

....., 19.....

..... County Clerk and Ex-Officio Registrar.

By ..... Deputy.

(BACK)

## AFFIDAVIT OF LOST NATURALIZATION PAPERS.

STATE OF MONTANA,

County of ..... } ss.

, being duly sworn on oath, says:

I am the elector named on the face of this card; I am a naturalized citizen of the United States; my certificate of naturalization is lost or destroyed, or beyond my present reach, and I have no certified copy

thereof; I came to the United States in the year.....; I was

admitted to citizenship in the state (or territory) of.....,

county of....., by the.....court

during the year.....; I last saw my certificate of naturalization,

or a certified copy thereof, at.....

Subscribed and sworn to before me this.....  
day of....., 19.....

County Clerk and Ex-Officio Registrar.

By..... Deputy.

Section 555. Any elector residing within the county may register by appearing before the County Clerk and Ex-Officio Registrar and making correct answers to all questions propounded by the County Clerk touching the items of information called for by such registry card and by signing and verifying the affidavit or affidavits on the back of such card.

Section 556. If any elector resides more than ten miles distant from the office of the County Clerk, he may register before the deputy registrar within the precinct where such registrar resides. If by reason of physical infirmity, the elector is unable to appear before the County Clerk or any deputy registrar, he may send written notice to the County Clerk, or to the deputy registrar, of such disability with the request that his registration be made at his residence. Upon

receipt of such notice and request it shall be the duty of the County Clerk or deputy registrar, as the case may be, to make the registration of such elector at his residence. Provided, that no greater sum than twenty-five cents may be charged or received by any officer or person for taking the registration of the elector herein provided for; and provided, further, that no officer or person shall be entitled to receive from any county in the State of Montana any charge for expenses incurred by reason of the provisions of this section.

Section 557. All Notaries Public and Justices of the Peace are designated as deputy registrars in the county in which they reside and may register electors residing more than ten miles from the county court house in any precinct within the county. The County Commissioners shall appoint a deputy registrar, other than Notaries Public and Justices of the Peace, for each precinct in the county. Such deputy registrar shall be a resident elector in the precinct for which he is appointed and shall register electors in that precinct, and shall receive as compensation for his services the sum of twenty-five cents for each elector registered by him. Each deputy registrar shall forward by mail within two days, all registration cards filled out by him, to the County Clerk and Recorder.

Section 558. The office of the County Clerk shall be open for registration of voters between the hours of nine a. m. and five p. m. on all days except legal holidays. Registry cards shall be numbered consecutively in the order of their receipt at the office of the County Clerk; provided, however, that electors who are registered upon the registry books in use in any county prior to the passage and approval of this law shall retain upon their registry cards the same number as they have severally had upon such books, and provided also that such electors need not again appear at the office of the County Clerk to register, but the County Clerk is hereby authorized to fill out from such registry books registry cards for all electors entitled to vote at the time of the passage and approval of this law, transcribing from such books the data called for by such cards. The cards so filled out from the registry books shall be marked "transcribed" by the County Clerk, and shall constitute part of the official register, and shall entitle the elector represented by each such card to vote in the same manner as if the card had been filled out, signed and verified by such elector. The County Clerk shall classify register cards according to the precincts in which the several electors reside, and shall arrange the cards in each precinct in alphabetical order. The cards for each precinct shall be kept in a separate filing case or drawer which shall be marked with the number of the precinct. The County Clerk shall immediately after filling out the card index or registry cards as herein provided, enter upon the official register of the county in the proper precinct, the full information given by said elector.

Section 559. If any applicant for registration applies to be registered who has not resided within the State of Montana, or the county or city for the required length of time, and who shall be entitled to and is qualified to register on or before the day of election, provided he answers the questions of the County Clerk in a satisfactory manner and it is made to appear to the County Clerk that he will be entitled to become a qualified elector by the time upon which the election is to be held, the County Clerk shall accept such registration. If any person applies to be registered who is not a citizen of the

United States but states that he will be qualified to be registered as a citizen of the United States before the date upon which the election is to be held, the County Clerk shall accept such registration, but shall place opposite the name of such person the words, "to be challenged for want of naturalization papers" and such person shall not be entitled to vote unless he exhibits to the judges of election his final naturalization papers.

Section 560. Every elector on changing his residence from one precinct to another within the same county, may cause his registry card to be transferred to the register of the precinct of his new residence, by a request in writing to the County Clerk of such county, in the following form:

I, the undersigned elector, having changed my residence from Precinct No..... to Precinct No..... in the County of ..... State of Montana, herewith make application to have my registry card transferred to the precinct register of the precinct of my present residence. My registration number is.....

Dated at....., on the..... day of ..... 19.....

Whenever it shall be more convenient for any elector residing outside of an incorporated city or town to vote in another precinct in the same political township, in the county, such elector may cause his registry card to be transferred from the precinct of his residence to such other precinct, by filing in the office of the County Clerk of such county, at least thirty (30) days prior to any election, a request in writing, in the following form:

I, the undersigned elector, herewith make application to have my registry card transferred from Precinct No..... to the register of Precinct No....., in the county of....., State of Montana. The reason why it is more convenient for me to vote in said Precinct No..... is that.....

Dated at....., on the..... day of ..... 19.....

The County Clerk shall compare the signature of the elector upon such request in either case, with the signature upon the registry card of the elector as indicated, and may question the elector as to any of the information contained upon such registry card, and if the County Clerk is satisfied concerning the identity of the elector and his right to have such transfer made, he shall endorse upon the registry card of such elector, the date of the transfer and the precinct to which transferred and shall file said card in the register of the precinct of the elector's present residence, or of the precinct to which he has requested that his registry card be transferred, and the County Clerk shall in each case make a transfer of the elector's name, together with all data connected therewith, to the proper precinct in the register.

Section 561. If any elector registered as such in any county shall change his residence to another county in the State of Montana, he shall make and file with the County Clerk of the latter county the following affidavit in duplicate, to-wit:

STATE OF MONTANA,

County of.....

} ss.

I, the undersigned elector, being duly sworn on oath say:

I have heretofore registered as an elector in the State of Montana, County of....., Precinct No....., but on the ..... day of ..... 19....., I moved my residence to the County of..... in said State and now reside at..... Section..... Township..... Range ..... Precinct No.....; I occupy Room No..... of the ..... Building..... floor; I was born in..... and was naturalized as a citizen of the United States in..... My height is..... ft..... in. I request that I be registered to conform to my present address.

-----  
Elector.

Subscribed and sworn to before me this..... day of  
....., 19.....

Said affidavit may be sworn to before any officer authorized to administer oaths within the State of Montana. Upon filing such affidavit in duplicate with the County Clerk, such elector shall fill out a registry card as herein provided for the original registration of voters and he shall thereupon be entitled to all of the rights of an elector in the precinct of his present residence, and such registry card shall be filed in the official registry of such precinct in the same manner as an original registry card.

Upon receiving the duplicate affidavits above referred to the County Clerk shall file one in his own office and shall within two days thereafter transmit the other to the County Clerk of the county wherein said elector was previously registered. Upon receipt of such duplicate affidavit by the County Clerk of such other county, he shall transfer the registry card of the elector named in such affidavit to the cancelled file of said county. Upon receiving the duplicate affidavit referred to in this section the County Clerk shall cancel the name of such elector in the register herein provided for by drawing a line through said entry in red ink and by endorsing thereon the cause of said cancellation.

Section 562. Immediately after every general election the County Clerk of each county shall compare the list of electors who have voted at such election in each precinct as shown by the official poll book, with the official register of said precinct, and he shall remove from the official register herein provided for the registry cards of all electors who have failed to vote at such election, and shall mark each of said cards with the word "Cancelled," and shall place such cancelled cards for the entire county in alphabetical order in a separate drawer to be known as the "cancelled file," but any elector whose card is thus removed from the official register may re-register in the same manner as his original registration was made, and the registration card of any elector who thus re-registers shall be filed by the County Clerk in the official register in the same manner as original registration cards are filed. The County Clerk shall at the same time cancel, by drawing a red line through the entry thereof, the name of all such electors who have failed to vote at such election.

Section 563. Every citizen of the State of Montana who was engaged in the active military or naval services of the United States during the late war, and was duly registered and entitled to vote at the last general election, and by reason of such service was unable to vote at such election, shall not be considered to have lost any rights by reason thereof, and the provisions of Section 15 of Chapter 122, Laws of the Fourteenth Legislative Assembly, shall not apply.

Section 564. The County Clerk shall within ten day after the passage and approval of this Act withdraw from the "cancelled file" the registration cards of all persons subject to the provisions of this Act and place such cards in the active precinct registration files and enter the names of such persons upon the proper registration rolls.

Section 565. Any person subject to the provisions of this Act whose name does not appear upon the register of voters for the precinct in which such person resides shall be entitled to vote at any election upon filing with the judges of election an affidavit, showing that he is a citizen of the State of Montana and was duly registered as an elector for the general election in 1918, that by reason of service in the military or naval service of the United States he was unable to vote at such election. Upon the filing of such affidavit said judges shall enter the name of such person upon the register of voters for such precinct and forward to the County Clerk the affidavit so made. The County Clerk shall immediately withdraw the registration card of such person from the "cancelled file" and place the same in the proper precinct file.

Section 566. The County Clerk shall close all registration for the full period of forty-five days prior to, and before any election. He shall immediately transmit to the Secretary of State a certificate showing the number of voters registered in each precinct in said county. The County Clerk of each county must cause to be published in a newspaper within his county, having a general circulation therein, for thirty days before which time when such registration shall be closed for any election, a notice signed by him to the effect that such registration will be closed on the day provided by law, and which day shall be specified in such notice; and must also state that electors may register for the ensuing election by appearing before the County Clerk at his office, or by appearing before a deputy registrar or before any Notary Public or Justice of the Peace in the manner pro-

vided by law. The publication of such notice must continue for the full period of thirty days. At least thirty days before the time when when the official register is closed for any election, the County Clerk shall cause to be posted, in at least five conspicuous places in each voting precinct at such election, notice of the time when the official register will close for such election.

Section 567. The County Clerk shall, at least thirty days preceding any election, cause to be printed and posted a list of all electors entitled to be registered, as shown by the official register of the county, and who are on the precinct registers as entitled to vote in the several precincts of such county, city or town, or school district of the first class. Such printed list of registered electors shall contain the name of the elector in full, together with his residence, giving the number and street, or the name of the house, or the section, township and range, as shown by the official register card of the elector, and the registry number. The expense of printing said list shall be paid by said county, city or town, or school district in which the election is to be held. The County Clerk shall cause to be posted, not less than thirty days before any such election, as in this Act provided, for at least five copies of such printed registry list in at least five conspicuous places within the said precinct, a copy of the list of registered voters hereing provided for, and shall retain sufficient number of said printed lists of registered voters in his office as may be necessary for the convenience of the public. He shall furnish to any qualified elector of any county, city or town or school district applying therefor a copy of the same provided that where the list herein provided for has been printed and posted for any primary election, the same may be used for the election proper following by posting in connection therewith at the time provided for in this section a supplemental list giving the names of electors who may have registered after the first list was prepared.

Section 568. During the time intervening between the closing of the official register and the day of the ensuing election the County Clerk shall prepare for each precinct a book to be known as the "poll book," which shall be for the use of the clerks and judges of election in each such precinct. Such books shall be arranged for the listing of the names of the electors in alphabetical divisions, each division to be composed of ruled columns with appropriate headings, under which the information contained upon the registry card of each elector shall be transcribed, excepting the oath of the elector, and the certified copy of the poll books so prepared shall be delivered to the judges of the election at or prior to the opening of the polls in each precinct. Where the precincts in municipal elections, or in elections in school districts of the first class include more than one county precinct, the County Clerk shall combine into one poll book the names of all electors in the several precinct registers of the precincts of which such municipal or school district precinct is composed. The County Clerk shall omit from the list of names of all certified voters so inserted in the poll book herein provided for, the names and registry of all electors which it is the duty of the County Clerk to cancel under the provisions of Section 570; provided that the requirements contained in the provisions of said section shall have been brought to the attention of the County Clerk not less than twenty days preceding the election.

Section 569. Whenever the period during which the official registry is closed preceding any election shall occur during the time within which any elector is entitled to register for another election, such elector shall be permitted to register for such other election, but the County Clerk shall retain his registry card in a separate file until the official register is again open for filing of cards, at which time all cards in such temporary file shall be placed in their proper position in the official register.

Section 570. The County Clerk must cancel any registry card in the following cases:

1. At the request of the party registered.
2. When he has personal knowledge of the death or removal from the county of the person registered or when duly authenticated certificate of the death of any elector is filed in his office.
3. When there is presented and filed with the County Clerk the separate affidavit of three qualified registered electors residing within the precinct, which affidavit shall give the name of such elector, his registry number and his residence, and which affidavit shall show that of the personal knowledge of the affiant, that any person registered does not reside or has removed from the place designated as the residence of such elector.
4. When the insanity of the elector is legally established.
5. Upon the production of a certified copy of a final judgment of conviction of any elector, of felony.
6. Upon the production of a certified copy of the judgment of any court directing the cancellation to be made.

Section 571. The County Clerk shall receive, for the use and benefit of the county, from every city or town, or from every school district of the first class, to which the poll books referred to in the last section have been furnished, the sum of five cents for each and every name entered in such poll books, and in addition he shall receive in like manner the amount of the actual expense incurred in printing and posting the lists of electors, and in publishing the notices required by this law, and any other expense incurred on account of any such municipal or school district election. It shall be the duty of the City or Town Council, or Board of School Trustees, to order a warrant drawn for such sum as may be due to the County Clerk under the provisions of this section within thirty days after the presentation of the account to them by said County Clerk.

Section 572. The County Clerk shall furnish to any person or persons who in writing may so request, a copy of the official precinct registers of any county, city or school district precinct, and upon delivery thereof shall charge and collect for the use and benefit of the county the sum of five cents for each and every name entered in such official precinct register.

Section 573. At any time not later than the tenth day prior to any election, a challenge may be filed with the County Clerk, signed by a qualified elector in writing, and duly verified by the affidavit of the elector, that the elector designated therein is not entitled to register. Such affidavit shall state the grounds of challenge, objection and disqualification. The County Clerk shall file the affidavit of challenge in his office as a record thereof. The

County Clerk must deliver a true and correct copy of any and all of such affidavits so filed, challenging the right of any elector to vote who has been so registered at the same time, and together with the copy of the precinct registers and check lists, and other papers required by this Act to be delivered to the judges of election, as in this Act provided, and he must write distinctly opposite to the name of any person to whose qualification as an elector objections may be thus made, the words; "To be challenged." It shall be the duty of the judges of election, if on election day such person who has been objected and challenged applies to vote, to test under oath, his qualifications. Notwithstanding the elector is registered, his right to vote may be challenged on the day of election by any qualified registered elector, orally stating, to the judges of election, the grounds of such objection or challenge to the right of any registered elector to vote.

It is the duty of the judges of election, when it appears that any elector offers to vote and is either challenged by a duly qualified registered elector, on election day, or if an affidavit of objection to the right of such elector to vote has been filed with the County Clerk and the copy of the precinct registers furnished to the judges of election have endorsed thereon, opposite to the name of such elector, "to be challenged," to test the qualifications of the elector and ask any questions that such judges may deem proper, and shall compare the answers of the elector to such questions with the entries in the precinct register books, and if it be found that said elector is disqualified, or that the answers given by such elector to the questions propounded by the judges do not correspond to the entry in the precinct registers, or that said elector is disqualified from any cause under the law, or if he refuses to take an oath as to his qualifications, he shall not be permitted to vote. The judges of election, in their discretion, may require such elector to produce before them one or more freeholders of the county, as they may deem necessary, and have them examined under oath as to the qualifications of the elector.

Section 574. For the purpose of registration or voting the place of residence of any person must be governed by the following rules as far as they are applicable:

1. That place must be considered and held to be the residence of a person in which his habitation is fixed, and to which, whenever he is absent, he has the intention of returning.

2. A person must not be held to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, or of this State, nor while a student at any institution of learning, nor while kept at any alms house or other asylum at the public expense, nor while confined in any public prison, nor while residing on any military reservation.

3. No soldier, seaman, or marine in the army or navy of the United States shall be deemed a resident of this State on consequence of being stationed at any military or naval place within the same.

4. A person must not be considered to have lost his residence who leaves his home to go into another state, or other district of this State, for temporary purposes merely with the intention of returning, provided he has not exercised the right of the election franchise in said state or district.

5. A person must not be considered to have gained a residence in any county into which he comes for temporary purposes merely without the intention of making such county his home.

6. If a person removes to another state with the intention of making it his residence, he loses his residence in this State.

7. If a person removes to another state with the intention of remaining there for an indefinite time, and as a place of present residence, he loses his residence in this State, notwithstanding he entertains an intention of returning at some future period.

8. The place where a man's family resides is presumed his place of residence, but any man who takes up or continues his abode with the intention of remaining, or a place other than where his family resides, must be regarded as a resident of the place where he so abides.

9. A change of residence can only be made by the act of removal joined with the intent to remain in another place. There can only be one residence. A residence cannot be lost until another is gained.

10. The term of residence must be computed by including the day of the election.

Section 575. When a naturalized citizen applies for registration his certificate of naturalization, or a certified copy thereof, must be produced and stamped, or written in ink by the registry agent, with such registry agent's name and the year and day and county where presented, but if it satisfactorily appears to the registry agent, by the affidavit of the applicant (and the affidavit of one or more credible electors as to the credibility of such applicant when deemed necessary), that his certificate of naturalization, or a certified copy thereof, is lost or destroyed, or beyond the reach of the applicant for the time being, said registry agent must register the name of said applicant, unless he is by law otherwise disqualified; but in case of failure to produce the certificate of naturalization, or a certified copy thereof, the registry agent must propound the following questions:

1. In what year did you come to the United States?
2. In what state or territory, county, court and year were you finally admitted to citizenship?
3. Where did you last see your certificate of naturalization or a certified copy thereof?

Section 576. The judges of election in each precinct, at every general or special election, shall, in the precinct register book, which shall be certified to them by the County Clerk, mark a cross (X) upon the line opposite to the name of the elector before any elector be permitted to vote, the judges of election shall require the elector to sign his name upon one of the precinct register books, designated by the County Clerk for that purpose, and in a column reserved in the said precinct books for the signature of electors. If the elector is not able to sign his name he shall be required by the judges to produce two freeholders who shall make an affidavit before the judges of election, or one of them, in substantially the following form:

"STATE OF MONTANA,

County of.....

} ss.

We, the undersigned witnesses, do swear that our names and signatures are genuine, and that we are each personally acquainted with..... (the name of the elector).

and that we know that he is residing at.....  
and that we believe that he is entitled to vote at this election, and that we are each freeholders in the county." Which affidavit shall be filed by the judges, and returned by them to the County Clerk, with the return of the election; one of the judges shall thereupon write the elector's name, and note the fact of his inability to sign, and the names of the two freeholders who made the affidavit herein provided for. If the elector fails or refuses to sign his name and if unable to write fails to procure two freeholders who will take the oath herein provided, he shall not be allowed to vote. Immediately after the election and canvass of the returns, the judges of election shall deliver to the County Clerk the copy of said official precinct register sealed, with the election returns and poll book, which have been used at said election.

Section 577. In any action or proceeding instituted in a District Court to compel the County Clerk to make and enter the name of any elector in the precinct register, as many persons may be joined as plaintiffs for cause of action and as many persons as there are causes of action against, may be joined as defendants.

Section 578. No person shall be entitled to vote at any election mentioned in this Act unless his name shall, on the day of election, except at school election in school districts of the second and third class, appear in the copy of the official precinct register furnished by the County Clerk to the judges of election, and the fact that his name so appears in the copy of the precinct register shall be prima facie evidence of his right to vote; provided, that when the judges shall have good reason to believe, or when they shall be informed by a qualified elector that the person offering to vote is not the person who was so registered in that name, the vote of such person shall not be received until he shall have proved his identity as the person who was registered in that name by the oath of two reputable freeholders within the precinct in which such elector is registered.

Section 579. Any elector whose name is erroneously omitted from any precinct poll book may apply for and secure from the County Clerk a certificate of such error, and stating the precinct in which such elector is entitled to vote, and upon the presentation of such certificate to the judges of election in such precinct, the said elector shall be entitled to vote in the same manner as if his name had appeared upon the precinct poll book. Such certificate shall be marked "voted" by the judges, and shall be returned by them with the poll book.

Section 580. Wherever in this Act the word "County Clerk" appears, it shall be construed as extending and giving authority to any regularly appointed Deputy County Clerk.

Section 581. The word "elector," as used in this law, whether used with or without the masculine pronoun, shall apply equally to male and female electors.

Section 582. The word "election," as used in this law, where not otherwise qualified, shall be taken to apply to general, special, primary nominating and municipal elections, and to elections in school districts of the first class.

Section 583. Any person or persons, or any officer of any county, city or town, or school district, who, under the provisions of this Act, are required to perform any duty, who shall wilfully or knowingly fail, refuse or neglect to perform such duty, or to comply with the provisions of this Act, shall, upon conviction, be fined in the sum of not less than Three Hundred Dollars, nor more than One Thousand Dollars, or by imprisonment in the county jail for a period of not less than three months and no more than one year. Upon the conviction of any officer of the violation of the provisions of this Act, the Judge of the District Court hearing such proceeding shall, at the time of rendering judgment of conviction, include in such order of conviction an order of the court that such officer be removed from office.

Section 584. If any person offering to vote at any primary election be challenged by a judge or any qualified elector at said election, as to his right to vote thereat, an oath shall be administered to him by one of the judges that he will truly answer all questions touching his right to vote at such election, and if it appear that he is not a qualified voter under the provisions of this Act, his vote shall be rejected and if any person whose vote shall be so rejected shall offer to vote at the same election, at any other polling place, he shall be deemed guilty of a misdemeanor.

Section 585. Any person who shall make false answers, either for himself or another, or shall violate or attempt to violate any of the provisions of this Act, or knowingly encourage another to violate the same, or any public officer or officers, or other persons upon whom any duty is imposed by this Act, or any of its provisions, who shall wilfully neglect such duty, or shall wilfully perform it in such way as to hinder the objects and purposes of this Act, shall, excepting where some penalty is provided by the terms of this Act, be deemed guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the State prison for a period of not less than one year or more than fourteen years, and if such person be a public officer, shall also forfeit his office.

Section 586. It shall be the duty of the Board of County Commissioners of each county to provide the County Clerk thereof with sufficient help to enable him to properly perform the duties imposed upon him by this Act, and the cost of the stationery, printing, publishing and posting to be furnished or procured by the County Clerk by the provisions of this law shall be a proper charge upon the County.

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## JUDGES OF ELECTION.

Section 587. The Board of County Commissioners of the several counties, at the regular session next preceding a general or special election, must appoint five judges of election for each precinct in

which the voters therein, by the last registration, were one hundred or more, and three judges of election for each precinct in which such registration was less than one hundred.

Section 588. The Board of County Commissioners, notwithstanding the registration, may appoint five judges of election for each precinct in which, upon information obtained by them, they have reason to believe contains one hundred voters or more, and three judges of election in precincts which, upon information obtained by them, they have reason to believe contains less than one hundred voters.

Section 589. In any new precinct established, the Board of County Commissioners must, in like manner, appoint five or three judges of election, according to the estimated number of voters therein, as required by the two next preceding sections.

Section 590. In making the appointment of judges of election not more than a majority of such judges must be appointed from any one political party for each precinct.

Section 591. The compensation of members of boards of election, including judges and clerks, is hereby fixed at forty cents per hour for the time actually on duty, and must be audited by the Board of County Commissioners and paid out of the county treasury.

Section 592. The Clerk of the Board must make out and forward by mail, immediately after the appointment of the judges, a notice thereof in writing, directed to each of them. In case there is no post-office in any one or more of the precincts in any county, the Clerk must forward notices of such appointment by registered mail to the postoffice nearest such precinct, directed to the judges aforesaid. If, in any of the precincts, any of the judges refuse or neglect to serve, the electors of such precinct may elect a judge or judges to fill vacancies on the morning of the election, to serve at such election.

Section 593. The judges must elect two persons having the same qualifications as themselves to act as clerks of the election. The judges continue judges of all elections to be held in their respective precincts until other judges are appointed; and the clerks of election continue to act as such during the pleasure of the judges of election, and the Board of County Commissioners must from time to time fill vacancies which may occur in the office of judges of election in any precinct within their respective counties.

Section 594. The clerks of the several Boards of County Commissioners must, at least thirty days before any general election, make and forward by mail to such judge or judges as are designated by the County Commissioners, three written notices for each precinct, said notices to be substantially as follows:

Notice is hereby given that on the first Tuesday after the first Monday of November, 19....., at the house....., in the county of ..... , an election will be held for ..... (naming the offices to be filled, including electors of the President and Vice President, a Representative in Congress, State, county and township officers), and for the determination of the following questions (naming them), the polls of which election will be open at 8 o'clock in the morning and continue open until 6 o'clock in the afternoon of the same day. Dated this..... day of ..... , A. D. 19....

Signed, A. B., Clerk of the Board of County Commissioners.

Section 595. The judges to whom such notice is directed, as provided in the next preceding section, must cause to be put up in three of the most public places in each precinct the notices of election in such precinct, at least ten days previous to the time of holding any general election, which notices must be posted as follows: One at the house where the election is authorized to be held, and the others at the two most public and suitable places in the precinct.

Section 596. Previous to votes being taken, the judges and clerks of election must take and subscribe the official oath prescribed by the constitution. It is lawful for the judges of election, and they are hereby empowered, to administer the oath to each other, and to the clerks of the election.

Section 597. Any member of the board, or either clerk thereof, may administer and certify oaths required to be administered during the progress of an election.

Section 603. Before the opening of the polls, the County Clerk or the City Clerk in the case of municipal elections, must deliver to the judges of each election precinct which is within the county (or within the municipality in case of municipal election) and in which the election is to be held at the polling place of the precinct, the proper number of election ballots as provided for in Sec. 687 of this Code. He must also deliver to said judges a rubber or other stamp, with ink pad, for the purpose of stamping or designating the official ballots, as hereinafter provided. Said stamp must contain the words "Official Ballot," the name or number of the election precinct, the name of the county, the date of the election, and name and official designation of the clerk who furnishes the ballots. The judge of election to whom the stamps and ballots are given pursuant to this section must be the same person who may be designated by the Commissioners to post the notices required by Section 594 of this Code. But in case it be impracticable to deliver such stamps and ballots to such judge, then they may be delivered to some other one of the judges of election.

Section 604. There shall be provided at the expense of the county, for each polling precinct, a substantial ballot box or canvas pouch with a secure lock and key for the ballots and detached stubs as hereinafter provided for. There shall be one opening and no more in such box or canvas pouch, of sufficient size to admit a single folded ballot. The adoption of the canvas pouch to be used instead of the ballot box, in any precinct, shall be optional with the Commissioners of each county, but in such precincts where pouches are so adopted, the pouches shall be returned to the County Clerk together with the other election returns, as by law provided.

Section 605. There must be an opening in the lid of such box of no larger size than shall be sufficient to admit a single folded ballot.

Section 606. Before receiving any ballots the judges must, in the presence of any persons assembled at the polling place, open and exhibit the ballot box and remove any contents therefrom, and then close and lock the same, delivering the key to one of their members, and thereafter the ballot box must not be removed from the polling

place or presence of the bystanders until all the ballots are counted, nor must it be opened until after the polls are finally closed.

Section 607. The County Clerk of each county must cause to be printed in large type on cards in the English language, instructions for the guidance of electors in preparing their ballots. He must furnish six cards to the judges of election in each election precinct, and one additional card for each fifty registered electors, or fractional part thereof, in the precinct, at the same time and in the same manner as the printed ballots. The judges of election must post not less than one of such cards in each place or compartment provided for the preparation of ballots, and not less than three of such cards elsewhere in and about polling places upon the day of election. Said cards must be printed in large, clear type, and must contain full instructions to the voters as to what should be done, viz:

1. To obtain ballots for voting.
2. To prepare the ballots for deposit in the ballot boxes.
3. To obtain a new ballot in the place of one spoiled by accident or mistake. Said card must also contain a copy of Secs. 10753, 10757, 10758, 10759, 10760, 10761, of the Penal Code. There must also be posted in each of the compartments, or booths, one of the official tickets, as provided in Sections 677 to 686 without the official stamp, and not less than three such tickets posted elsewhere in and about the polling places upon the day of election.

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#### POLL BOOKS.

Section 598. The Board of County Commissioners of each county must furnish for the several election precincts in each county poll books after the forms hereinafter prescribed.

Section 599. The Clerk of the Board must forward by mail, as a registered package, to one of the judges of election so appointed, in each precinct, at least ten days prior to any general election and five days prior to any special election, two of such blank poll books for the use of the judges of such precinct.

Section 600. The following is the form of poll books to be kept in duplicate by the judges and clerks of election:

#### Poll Book of Precinct No. ....

Number and names of electors voting.

No.	NAME	No.	NAME	No.	NAME
-----	------	-----	------	-----	------

Total number of votes cast at Precinct No.....

We, the undersigned, judges and clerks of an election held at Precinct No....., in the county of ....., in the State of Montana, on the.....day of....., 19...., having first been severally sworn according to law, hereby certify that the foregoing is a true statement of the number and names of the persons voting at said precinct at said election, and that the following named persons received the number of votes annexed to their respective names for the following described offices, to-wit:

Governor	Members of Legislative Assembly		
A. B., _____ Votes	Senate	House of Representatives	
C. D., _____ Votes	E. F., _____ Votes	G. H., _____ Votes	

**Certified and Signed by Us.**

	Clerk.
	Judges.

Section 601. No poll book or certificate returned from any election precinct must be set aside or rejected for want of form nor on account of its not being strictly in accordance with the directions of this title, if it can be satisfactorily understood.

Section 602. The necessary printed blanks for poll lists, tally lists, lists of electors, tickets and returns, together with envelopes in which to enclose the returns, must be furnished by the Board of County Commissioners to the officers of each election precinct at the expense of the county.

## ELECTION RETURNS.

Section 608. In sending out election supplies to each precinct for each general election, it shall be the duty of the County Clerk in each county to send with such supplies not less than six printed forms, with a return envelope, for the use of judges of election in transmitting election returns for public information. Said printed forms shall be in ballot form on tinted paper, and the name of each candi-

date and each proposition voted on shall be printed on said blank. Brief instructions for the use of said blank, as contained in this Act, shall also be printed on said blank.

Section 609. As soon as all of the ballots have been counted in any precinct it shall be the duty of the election judges to correctly copy the total vote cast for each candidate and the total vote cast for and against each proposition on the blanks furnished by the County Clerk, as provided in the preceding section.

Section 610. One of said blanks, properly filled out, shall be posted forthwith at the polling place; and one copy, correctly filled out, shall be sent by mail or by messenger, when the same can be done without expense, to the County Clerk. Said copy may be sent by the same messenger carrying the official election returns, but the same shall not be enclosed or sealed with the other returns.

Section 611. Any judge of election, or other officer, who shall fail or refuse to comply with the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding Fifty Dollars.

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## CANDIDATES AND QUESTIONS FOR THE ELECTION.

Section 612. Any convention or primary meeting held for the purpose of making nominations to public office, or the number of electors required in this chapter, may nominate candidates for public office to be filled by election in the State. A convention or primary meeting within the meaning of this chapter is an organized assemblage of electors or delegates representing a political party or principle.

Section 613. All nominations made by such convention or primary meeting must be certified as follows: The certificate of nomination, which must be in writing, must contain the name of each person nominated, his residence, his business, his business address, and the office for which he is named, and must designate in not more than five words, the party or principle which such convention or primary meeting represents, and it must be signed by the presiding officer and secretary of such convention or primary meeting, who must add to their signatures, their respective places of residence, their business and business addresses. Such certificates must be delivered by the secretary or the president of such convention or primary meeting to the Secretary of the State or to the County Clerk, as in this chapter required.

Section 614. Certificates of nomination of candidates for offices to be filled by the electors of the entire State, or of any division or district greater than a county, must be filed with the Secretary of State. Certificates of nomination for county, township and precinct officers must be filed with the clerks of the respective counties wherein the officers are to be elected. Certificates of nomination for municipal officers must be filed with the clerks of the respective municipal corporations wherein the officers are to be elected. The certificate of nomination of joint member of the House of Representatives must be filed in the offices of the County Clerks of the counties to be represented by such joint member.

Section 615. Candidates for public office may be nominated otherwise than by convention or primary meeting in the manner following:

A certificate of nomination, containing the name of a candidate for the office to be filled, with such information as is required to be given in certificates provided for in Sec. 613, must be signed by electors residing within the State and district, or political division in and for which the officer or officers are to be elected, in the following required numbers:

The number of signatures must not be less in number than five per cent of the number of votes cast for the successful candidate for the same office at the next preceding election, whether the said candidate be State, county, township, municipal or any other political subdivision of State or county; but the signatures need not all be appended to one paper. Each elector signing a certificate shall add to his signature his place of residence, his business and his business address. Any such certificate may be filed as provided for in the next preceding section of this chapter, in the manner and with the same effect as a certificate of nomination made by a party convention or primary meeting.

Section 616. No certificate of nomination must contain the name of more than one candidate for each office to be filled. No person must join in nominating more than one person for each office to be filled, and no person must accept a nomination to more than one office.

Section 617. The Secretary of State and the Clerks of the several counties and of the several municipal corporations must cause to be preserved in their respective offices for one year all certificates of nomination filed under the provisions of this chapter. All such certificates must be open to public inspection under proper regulations to be made by the officers with whom the same are filed.

Section 618. Certificates of nomination to be filed with the Secretary of State must be filed not more than sixty days and less than thirty days before the day fixed by law for the election. Certificates of nomination herein directed to be filed with the County Clerk must be filed not more than sixty days and not less than twenty days before the election; certificates of the nomination of candidates for municipal offices must be filed with the Clerks of the respective municipal corporations not more than thirty days and not less than three days previous to the day of election; but the provisions of this section shall not be held to apply to nominations for special elections to fill vacancies.

Section 619. Not less than twenty nor more than thirty days before an election to fill any public office, the Secretary of State must certify to the County Clerk of each county within which any of the electors may by law vote for candidates for such office, the name and description of each person nominated, as specified in the certificates of nomination filed with the Secretary of State.

Section 620. Whenever any person nominated for public office, as in this chapter provided, shall at least ten days before election, except in the case of municipal elections, in writing, signed by him, notify the officer with whom the certificate nominating him is by this chapter to be filed, that he declines such nomination, such nomination shall be void. In municipal elections, such declination must be made at least two days before the election.

Section 621. If any person so nominated dies before the printing of the tickets, or declines the nomination as in this chapter provided, or if any certificate of nomination is or becomes insufficient or inoperative from any cause, the vacancy or vacancies thus occasioned may be filled in the manner required for original nomination. If the original nomination was made by a party convention which had delegated to a committee the power to fill vacancies, such committee may, upon the occurring of such vacancies, proceed to fill the same. The chairman and secretary of such committee must thereupon make and file with the proper officer a certificate setting forth the cause of the vacancy, the name of the person nominated, the office for which he was nominated, the name of the person for whom the new nominee is to be substituted, the fact that the committee was authorized to fill vacancies, and such further information as is required to be given in an original certificate of nomination. The certificate so made must be executed in the manner prescribed for the original certificate of nomination, and has the same force and effect as an original certificate of nomination. When such certificate is filed with the Secretary of State, he must, in certifying the nominations to the various County Clerks, insert the name of the person who has thus been nominated to fill the vacancy in place of the name of the original nominee. And in the event he has already transmitted his certificate, he must forthwith certify to the Clerks of the proper counties the name and description of the person so nominated to fill a vacancy, the office he is nominated for, the party or political principle he represents, and the name of the person for whom such nominee is substituted.

Section 622. Whenever it appears by affidavit that an error or omission has occurred in the publication of the name or description of a candidate nominated for office, or in the printing of ballots, the District Court of the county may, upon application of any elector, by order require the County or Municipal Clerk to correct such error, or to show cause why such error should not be corrected.

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## PRIMARY ELECTIONS.

Section 623. No person shall be entitled to vote at any caucus, primary meeting, or election, held by any political party, except he be an elector of the state and county within which such caucus, primary meeting, or election is held, and a legal resident of the precinct or district within which such caucus, primary meeting, or election is held, and the limits of which said precinct or district are fixed and prescribed by the regularly chosen and recognized representatives of the party issuing the call for such caucus, primary meeting, or election.

Section 624. No person shall be entitled to vote at any caucus, primary meeting, or election, who is not identified with the political party holding such caucus, primary meeting, or election, or who does not intend to act with such political party at the ensuing election, whose candidates are to be nominated at such caucus or primary meeting. And no person having voted at any primary meeting or election of any political party whose candidates are to be or have been nominated, shall be permitted to vote at the primary meeting or election of any political party whose candidates are to be or have been nominated, shall be permitted to vote at the primary meeting

or election of any other political party whose candidates are to be or have been nominated and to be voted for at the same general or special election.

Section 625. Three judges, who shall be legal voters in the precinct where such caucus or primary meeting is held, shall be chosen by the qualified voters of said precinct or district, who are present at the opening of such caucus or primary meeting, and said judges shall be empowered to administer oaths and affirmations, and they shall decide all questions relating to the qualifications of those voting or offering to vote at such caucus or primary meeting, and they shall correctly count all votes cast and certify the results of the same.

Section 626. The judges shall select one of their number who shall act as clerk, and the clerk must keep a true record of each and every person voting, with their residence, giving the street and number and postoffice address.

Section 627. Any qualified voter may challenge the right of any person offering to vote at such caucus or primary meeting, and in the event of such challenge, the person challenged shall swear to and subscribe an oath administered by one of the judges, which oath shall be substantially as follows:

"I do solemnly swear that I am a citizen of the United States, and am an elector of this county and of this precinct where this primary is now being held; that I have been and now am identified with the party, or that it is my intention bona fide to act with the party and identify myself with the same at the ensuing election, and that I have not voted at any primary meeting or election of any other political party whose candidates are to be voted for at the next general or special election."

If the challenged party takes the oath above prescribed, he is entitled to vote; provided, in case a person taking the oath as aforesaid shall intentionally make false answers to any questions put to him by any of the judges concerning his right to vote at such caucus or primary meeting or election, he shall upon conviction be deemed guilty of perjury, and shall be punished by imprisonment in the penitentiary for a term of not less than one year nor more than three years.

Section 628. It shall be unlawful for any judge of any caucus or primary meeting or primary election to knowingly receive the vote of any person whom he knows is not entitled to vote, or to fraudulently or wrongfully deposit any ballot or ballots in the ballot box, or take any ballot or ballots from the ballot box of said caucus or primary election, or fraudulently or wrongfully mix any ballots with those cast at such caucus or primary election, or knowingly make any false count, canvass, statement or return of the ballots cast or vote taken at such caucus or primary election.

Section 629. No person shall, by bribery or other improper means or device, directly or indirectly, attempt to influence any elector in the casting of any ballot at such caucus or primary meeting, or deter him in the deposit of his ballot, or interfere or hinder any voter at such caucus or primary meeting in the full and free exercise of his right of suffrage at such caucus or primary meeting.

Section 630. Any person or persons violating any of the provisions of this Act, except as provided in Sec. 627 shall be guilty

of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than Fifty Dollars nor more than Two hundred and Fifty Dollars, or by imprisonment in the county jail not less than three months nor more than twelve months, or by both such fine and imprisonment, in the discretion of the court.

(See also Direct Primaries.)

### DIRECT PRIMARIES.

Section 631. Whenever the provisions of this law in operation prove to be of doubtful or uncertain meaning, or not sufficiently explicit in directions and details, the general laws of Montana, and especially the election and registration laws, and the customs, practice, usage and forms thereunder, in the same circumstances or under like conditions, shall be followed in the construction and operation of this law, to the end that the protection of the spirit and intention of said laws shall be extended so far as possible to all primary elections, and especially to all primary nominating elections, provided for by this law. If this proposed law shall be approved and enacted by the people of Montana, the title of this bill shall stand as the title of the law.

Section 632. On the seventieth day preceding any general election (not including special elections to fill vacancies, municipal elections in towns and cities, irrigation district and school elections) at which public officers in this state and in any district or county are to be elected, a primary nominating election shall be held in accordance with this law in the several election precincts comprised within the territory for which such officers are to be elected at the ensuing election, which shall be known as the primary nominating election, for the purpose of choosing candidates by the political parties, subject to the provisions of this law, for Senator in Congress, and all other elective state, district and county officers, and delegates to any constitutional convention or conventions that may hereafter be called, who are to be chosen at the ensuing election wholly by electors within this State, or any subdivision of this State, and also for choosing and electing county central committeemen by the several parties subject to the provisions of this law.

Section 633. It shall be the duty of the County Clerk, thirty days before any primary nominating election, to prepare printed notices of such election, and mail two of said notices to each judge and clerk of election in each precinct; and it shall be the duty of the several judges and clerks immediately to post said notices in public places in their respective precincts. Said notices shall be substantially in the following form:

#### Primary Nominating Election Notice.

Notice is hereby given that on....., the .....

day of....., 19....., at the....., in the .....

Precinct of ....., in the County of ....., Montana, a primary nominating election will be held at which the (insert names of political parties subject to this law) will choose their candidates for state, district, county, precinct and other offices, namely (here name the offices to be filled, including a Senator

in Congress when the next Legislative Assembly is to elect a Senator, delegates to any constitutional convention then called, and candidates for county central committeemen to be elected); which election will be held at 12 o'clock, noon, and will continue until 7 o'clock in the afternoon of said day.

Dated this..... day of....., 19.....  
....., County Clerk.

Section 634. The nomination of candidates for municipal offices by the political parties subject to the provisions of this law shall be governed by this law in all incorporated towns and cities of this State having a population of thirty-five hundred and upward as shown by the last preceding national or state census. All petitions by the members of such political parties for placing the names of candidates for nomination for such municipal offices on the primary nominating ballots of the several political parties shall be filed with the city clerk of said several towns and cities, and it shall be the duty of such officers to prepare and issue notices of election for such primary nominating elections in like manner as the several county clerks perform similar duties for nomination by such political parties for county offices at primary nominating elections. The duties imposed by this law on the county clerks at primary nominating elections are hereby, as to said towns and cities, designated to be the duties of the city clerk of said towns and cities as to primary nominating elections of the political parties subject to the provisions of this law; provided, that in cities and towns the primary nominating election shall be held on the fourteenth day preceding their municipal elections. Under the provisions of this law the lawfully constituted legislative and executive authorities of cities and towns within the provisions of this section shall have such power and authority over the establishment of municipal voting precincts and wards, municipal boards of judges and clerks of election and other officers of their said municipal election, and other matters pertaining to municipal primary nominating elections required for such cities and towns by this law, that such legislative and executive authorities have over the same matter at their municipal elections for choosing the public officers of said cities and towns.

Section 636. Immediately after the closing of the polls at a primary nominating election, the clerks and judges of election shall open the ballot boxes at each polling place and proceed to take therefrom the ballots. Said officers shall count the number of ballots cast by each political party, at the same time bunching the tickets cast for each political party together in separate piles, and shall then fasten each pile separately by means of a brass clip, or may use any means which shall effectually fasten each pile together at the top of each ticket. As soon as the clerks and judges have sorted and fastened together the ballots separately for each political party, then they shall take the tally sheets provided by the County Clerk and shall count all the ballots for each political party separately until the count is completed, and shall certify to the number of votes for each candidate for nomination for each office upon the ticket of each party. They shall then place the counted ballots in a box. After all have been counted and certified to by the clerks and judges they shall seal the returns for each of said political parties in separate envelopes, to be returned to the County Clerk.

Section 637. Tally sheets for each political party having candidates to be voted for at said primary nominating election shall be furnished for each voting precinct by the County Clerk, at the same time and in the same manner that the ballots are furnished and shall be substantially as follows:

Tally sheet of the primary nominating election for.....  
(name of political party) held at .....precinct, in the  
county of ....., on the..... day of  
....., 19.....

The names of the candidates shall be placed on the tally sheets and numbered in the order in which they appear on the official and sample ballots, and in each case shall have the proper political party designated at the head thereof.

The following shall be the form of the tally sheets kept by the judges and clerks of the primary nominating election under this law, containing the number and name of each person voted for, the particular office for nomination to which each person was voted for, the total number of votes cast for each candidate for nomination. The tally or count as it is kept by each of the clerks shall be audibly announced as it proceeds and shall be kept in the manner and form as follows:

No.	Name of Candidate	Office	Total Vote Received	No.	Tally 5	No.	Tally 10	No.	Tally 15
12				12		12		12	
13				13		13		13	
14				14		14		14	

The columns for the numbers 12, 13, 14, etc., shall not be over three-eights of an inch wide. The column for the tallies shall be three-eights of an inch wide, the lines shall be three-eighths of an inch apart; every ten lines the captions of the columns shall be reprinted between double-ruled lines in bold-face small pica, and all figures shall be printed in bold-face small pica. The tally sheets shall conclude with the following form of certificate:

We hereby certify that at the above primary nominating election and polling place each of the foregoing named persons received the number of votes set opposite his name, as above set forth, for the nomination for the office specified.

....., Chairman

....., Clerk  
(Who kept this sheet)

....., Judge

....., Clerk

....., Judge

....., Clerk  
(Who kept the other sheet)

During the counting of the ballots each clerk shall, with pen and ink, keep tally upon one of the above tally sheets, of each political party, and shall total the number of tallies and write the total in ink immediately to the right of the last tallies for each candidate, and also in the columns headed "Total vote," and shall prepare the certificate thereto above indicated; and immediately upon the completion of the count, all the clerks shall sign the tally sheets, and each of them shall certify which sheets were kept by him; and the chairman and the judges, being satisfied of the correctness of the same, shall then sign all of said tally sheets. The clerks shall then prepare a statement of that portion of the tally sheets showing the number and name and political party of each candidate for nomination and the office and total votes received by each in the precinct, and shall prepare the certificate thereto, which statement shall be signed by the judges and clerks who complete the count, and shall be immediately posted in a conspicuous place on the outside of said polls, there to remain for ten days.

Section 638. Immediately after canvassing the votes in the manner aforesaid, the judges and clerks who complete the count, before they separate or adjourn, shall inclose the poll books in separate covers and securely seal the same. They shall also inclose the tally sheets in separate envelopes and seal the same securely. They shall also envelope all the ballots fastened together, as aforesaid, and seal the same securely; and they shall in writing, with pen and ink, specify the contents, and address each of said packages upon the outside thereof to the County Clerk of the county in which the election precinct is situated. These sealed packages of counted ballots shall be marked on the outside, showing what numbers are contained therein, but once sealed they are not to be opened by any one until so ordered by the proper court. When the count is completed, the ballots counted and sealed, and enveloped and marked for identification as aforesaid, shall be packed in the two ballot boxes, and nothing else shall be put into the boxes. The boxes shall then be locked, and the official seal of the board shall be pasted over the keyhole and over the rim of the lid of the box, so that the box cannot be opened without breaking the seal. Thereafter neither the County Clerk nor the canvassers making the abstracts of the votes shall break the said seals upon the ballot boxes, nor shall any one break the seals on the boxes of the ballots, except upon the order of the proper court in case of contest, or upon the order of the county board when the boxes are needed for the ensuing election.

Section 639. Every political party shall nominate all its candidates for public office under the provisions of this law, and not in any other manner; and it shall not be allowed to nominate any candidate in the manner provided by Section 612 of this Code. Every political party and its regularly nominated candidates, members and officers, shall have the sole and exclusive rights to the use of the party named and the whole thereof, and no candidate for office shall be permitted to use any word of the name of any other political party or organization than that by which he is nominated. No independent or non-partisan candidate shall be permitted to use any word of the name of any existing political party or organization in his candidacy. The names of candidates for public office nominated under the provisions of this law shall be printed on

the official ballots for the ensuing election as the only candidate of the respective political parties for such public office in like manner as the names of the candidates nominated by other methods are required to be printed on such official ballots.

Section 640. Before or at the time of beginning to circulate any petition for nomination to any office under this law, the person who is to be a candidate for such nomination shall send by registered mail, or otherwise, to the Secretary of State, or the County Clerk or City Clerk a copy of his petition for nomination, signed by himself, and such copy shall be filed and shall be conclusive evidence for the purpose of this law that said elector has been a candidate for nomination by his party. All nominating petitions and notices pertaining to State or district offices to be voted for in more than one county, and for Judges of the District Court, shall be filed in the office of the Secretary of State; for county offices and district offices to be voted for in one county only, shall be filed with the County Clerk; and for all city offices, in the office of the City Clerk.

Section 641. Any qualified elector who has filed his petition shall have his name printed on the official nominating ballot of his party as a candidate for nomination for any office at any primary nominating election, held under the provisions of this act, if there shall be filed in his behalf a petition signed as herein required, and substantially in the following form:

To.....(address of the officer with whom the petition is to be filed) and to the members of the.....party and the electors of (State), Counties of.....comprising the.....District, (County), (city), as the case may be, in the State of Montana—

I,....., reside at....., and my post office address is..... If I am nominated for the office of.....at the primary nominating election to be held in the (State of Montana), (district), (county), (city), the.....day of....., 19...., I will accept the nomination and will not withdraw, and if I am elected I will qualify as such officer.

If I am nominated and elected I will, during my term of office (here the candidate, in not exceeding one hundred words, may state any measures or principles he especially advocates, and the form in which he wishes it printed after his name on the nominating ballot, in not exceeding twelve words).

In case of an elector seeking nomination for the office of Senator or Representative in the Legislative Assembly, he may include one of the following two statements in his petition; but if he does not do so, the Secretary of State or County Clerk, as the case may be, shall not on that account refuse to file his petition:

#### Statement No. 1.

I further state to the people of Montana, as well as to the people of my legislative district, that during my term of office I will

always vote for that candidate for United States Senator in Congress who has received the highest number of the people's votes for that position at the general election next preceding the election of a Senator in Congress, without regard to my individual preference.

---

(Signature of the candidate for nomination.)

If the candidate shall be unwilling to sign the above statement, then he may sign the following statement as a part of his petition:

**Statement No. 2.**

During my term of office I shall consider the vote of the people for United States Senator in Congress as nothing more than a recommendation, which I shall be at liberty to wholly disregard, if the reason for doing so seems to me to be sufficient.

---

(Signature of the candidate for nomination.)

Every such petition shall be signed as above by the elector seeking such nomination. There shall be a separate leaf or sheet signed as above on every such petition for each precinct in which it is circulated. After the above, and on separate sheet or sheets, shall be the following petition:

To....., (Secretary of State for Montana), or  
to....., the County Clerk for the County of  
....., Montana, (or to.....  
City Clerk of.....), (as the case may be).

We, the undersigned members of the.....party  
and qualified electors and residents of.....precinct,  
in the County of....., State of Montana, respectfully  
request that you will cause to be printed on the official nominating  
ballot for the.....party, at the aforesaid  
primary nominating election, the name of the above signed.....  
(name of applicant) as a candidate for nomination to the office of  
.....(title of office) by said.....  
party.

## Form.

Name..... Post Office Address.....

Street and Number, if any..... Precinct.....

Name	Postoffice Address	Street and Number, If Any	Precinct
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Each and every leaf or sheet of said petition containing signatures shall be verified in substantially the following form by one or more of the signers of said petition:

State of Montana, County of....., ss:

I, ....., being first duly sworn, say: I am personally acquainted with all the persons who have signed this sheet of the foregoing petition, and I personally know that their signatures thereon are genuine; and I believe that their postoffice address and residence are correctly stated and that they are qualified electors and members of the .....party.

(Signature of affiant.)

Subscribed and sworn to before me this.....

day of....., 19.....

(Signature and title of officer before whom oath is made.)

Section 642. The vote cast by a political party in each voting precinct for Representative in Congress at the last preceding general election shall be the basis on which the percentage for petition shall be counted. In the case of any political party not represented by any candidates for any office on the ballot at the last preceding general election, nomination papers must be signed by as many voters as are required in the case of the candidates of the party requiring the least number of signatures entitled, as herein provided, to a place on the ballot at such primary. If the nomination is for a municipal office, or for an office to be voted for in only one county, the necessary number of signers shall include electors residing in at least one-fifth of the voting precincts of the county, municipality or district; if it be a State or district office, and the district comprises more than one county, the necessary number of signers shall include electors residing in each of at least one-eighth of the precincts in each of at least two counties in the district; if it be an office to be voted for in the State at large, the necessary number of signers shall include electors residing in each of at least one-tenth of the precincts in each of at least seven counties of the State; if it be an office to be voted for in a congressional district, the necessary number of signers shall include

electors residing in at least one-tenth of the precincts in each or at least one-fourth of the counties in such district. The number of signers required on every such petition shall be at least two per cent of the party vote in the electoral district as above stated; provided, that the whole number of signers required on a nominating petition under the provisions of this law for any office to be voted for in the State at large, or in a congressional district, shall not exceed one thousand, nor in any other case shall the whole number required exceed five hundred signers. All the leaves or sheets making one petition shall be fastened together before they are forwarded to the proper officers for filing. There shall not be in any petition the name of more than one candidate for nomination. Any elector may sign more than one nominating petition required by this law for the same office. It shall be unlawful for any person to sign another person's name to any petition required by this law. It shall be unlawful for any person to sign any nominating petition required by this law unless he is a qualified elector. Any names or signatures placed on any petition in violation of the provisions of this law shall not be counted in computing the number of signers necessary to make the same a valid and effective petition.

Section 643. No person who is not a qualified elector shall be qualified to join in signing any petition for nomination, or to vote at said primary nominating election. But this shall not be construed to prevent any member of any party from signing a petition for the nomination of any independent or non-partisan candidate after the primary nominating election, nor shall it be construed to prevent any qualified elector from signing petitions for more than one candidate for the same office on one party ticket.

Section 644. All petitions for nomination under this Act for offices to be filled by the State at large, or by any district consisting of more than one county, and nominating petitions for Judges of District Courts in districts consisting of a single county shall be filed in the office of the Secretary of State not less than twenty days before the date of the primary nominating election; and for other offices to be voted for in only one county or district or city, every such petition shall be filed with the County Clerk or City Clerk, as the case may be, not less than fifteen days before the date of the primary nominating election.

Section 645. The County Clerk, Secretary of State, and the City Clerk of towns and cities having two thousand inhabitants or more shall keep a book entitled "Register of Candidates for Nomination at the Primary Nominating Election," and he shall enter therein, on different pages of the book for the different political parties subject to the provisions of this law, the title of the office sought and the name and residence of each candidate for nomination at the primary nominating election; the name of his political party; the date of receiving the first copy of his petition signed by the candidate; the words he wishes printed after his name on the nominating ballot, if any; the date of receiving his petition; the number of signatures thereon, and the number of signatures required to make a valid and sufficient petition for nomination to said office by his political party, and such other information as may aid him in arranging his official ballot for said primary nominating election. Immediately after the canvass of votes at a primary nom-

inating election is completed, the County Clerk, Secretary of State, or City Clerk, as the case may be, shall enter in his book marked "Register of Nominations," the date of such entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination.

Section 646. Such registers of candidates for nomination, and of nominations and petitions, letters and notices, and other writings required by law, as soon as filed, shall be public records, and shall be open to public inspection under proper regulations; and when a copy of any such writing is presented at the time the original is filed, or at any time thereafter, and a request is made to have such copy compared and certified, the officers with whom such writing was filed shall forthwith compare such copy with the original on file, and, if necessary, correct the copy and certify and deliver the copy to the person who presented it on payment of his lawful fees therefor. All such writings, poll books, tally sheets, ballots, and ballot stubs pertaining to primary nominating elections under the provisions of this Act shall be preserved as other records are for two years after the election to which they pertain, at which time, unless otherwise ordered or restrained by some court, the County Clerk shall destroy the ballots and ballot stubs, by fire, without any one inspecting the same.

Section 647. The provisions of Secs. 620 and 621 of this Code, shall apply to nominations, or petitions for nominations, made under the provisions of this law, in case of the death of the candidate or his removal from the State or his county or electoral district before the date of the ensuing election, but in no other case. In case of any such vacancy by death or removal from the State, or from the county or electoral district, such vacancy may be filled by the committee which has been given power by the political party or this law to fill such vacancies substantially in the manner provided by said Secs. 620 and 621 of this Code.

Section 648. Not more than twenty days and not less than seventeen days before the day fixed by law for the primary nominating election the Secretary of State shall arrange in the manner provided by this law, for the arrangement of the names and other information upon the ballots, all the names of and information concerning all the candidates for nomination contained in the valid petitions for nomination which have been filed with him in accordance with the provisions of this law, and he shall forthwith certify the same under the seal of the State, and file the same in his office, and make and transmit a duplicate thereof by registered letter to the County Clerk of each county in the State, and he shall also post a duplicate thereof in a conspicuous place in his office, and keep the same posted until after said primary nominating election has taken place. In case of emergency the Secretary of State may transmit such duplicate by telegraph.

Section 649. Not more than fifteen days and not less than twelve days before the day fixed by law for the primary nominating election, the County Clerk of each county or the City Clerk of each city, as the case may be, subject to the provisions of this law, shall arrange in the manner provided by this law for the arrangement of the names and other information concerning all the candidates and parties named in the valid petitions for nomination which have been filed with him and those which have been certified to him by the

Secretary of State, in accordance with the provisions of this law; and he shall forthwith certify the same under the official seal of his office, and file the same in his office, and make and post a duplicate thereof in a conspicuous place in his office, and keep the same posted until after the primary nominating election has taken place; and he shall forthwith proceed and cause to be printed, according to law, the colored sample ballots and the official voting ballots required by this law.

Section 650. All blanks, ballots, poll books and other supplies to be used at any primaries shall be provided, and all expenses necessarily incurred in the preparation for, or conducting such primaries, shall be paid out of the treasury of the county in the same manner and by the same officers as in the case of elections. Not later than one day next preceding any primary the County Clerk must furnish one of the judges of the primaries in each precinct with a copy of the official register and a check list for the precinct.

Section 651. At all primaries there shall be a ballot made up of the several party tickets herein provided for, each of which shall be printed on a separate sheet of white paper, all of which shall be of the same size, and all shall be securely fastened together at the top and folded, provided that there shall be as many separate tickets as there are parties entitled to participate in said primary election.

The names of all candidates shall be arranged alphabetically according to surnames, under the appropriate title of the respective officers, and under the proper party designation upon the party ticket. If any elector write upon his ticket the name of any person who is a candidate for the same office upon some other ticket than that upon which his name is so written, this ballot shall be counted for such person only as a candidate of the party upon whose ticket his name is written, and shall in no case be counted for such person as a candidate upon any other ticket. In case any person is nominated, as provided in this act, upon more than one ticket, he shall forthwith file with the Secretary of State or County Clerk a written declaration indicating the party designation under which his name is to be printed on the official ballot, for the primary election, failing in which his name shall be printed upon the party ticket for which the greater number of nominating signatures have been filed for such candidate and no candidate shall have his name printed on more than one ticket. The ballots with the endorsements shall be printed on white paper in substantially the form of the Australian ballot used in general elections, except that the candidates of each party shall be printed on a separate sheet. After preparing his ballot, the elector shall detach the same from the remaining tickets and fold it so that its face will be concealed and the official stamp thereon seen. The remaining tickets attached together shall be folded in like manner by the elector, who shall thereupon, without leaving the polling place, vote the market ballot forthwith, and deposit the remaining tickets in the separate ballot box to be marked and designated as the blank ballot box. Immediately after the canvass the judges of election shall, without examination, destroy the tickets deposited in the blank ballot box.

Section 652. There shall be provided and furnished at each primary nominating election for each election precinct, for each voter, at least two official ballots intended to be voted, and a like number of the colored sample ballots. The sample ballots shall be duplicate im-

pressions of the official ballots to be voted, but in no case shall they be white, nor shall the sample ballots have perforated stubs, nor shall they have the same margin either at the top or sides or bottom, as the official voting ballots, have or nearer thereto than twelve points. These colored sample ballots shall be furnished as soon as printed, at any time before the primary nominating election by the respective County or City Clerks in reasonable quantities, to all electors applying for the same; and on the day of said election, under the direction and control of the judges at each polling place, said colored sample ballots shall be given in proper quantities to all electors applying for them.

Section 653. At all general primary nominating elections next preceding the election of a Senator in Congress by the Legislature of Montana there shall be placed upon the official primary nominating election ballots, by each of the county clerks and clerks of the county board, the names of all candidates for the office of Senator in Congress, for whose nominations petitions have been duly made and filed under the provisions of this law, the votes for which candidates shall be counted and certified to by the election judges and clerks in the same manner as the votes for other candidates; and records of the vote for such candidates shall be made out and sworn to by the board of canvassers of each county of the State and returned to the Secretary of State at the time and in like manner as they shall transmit other records and returns required by this law.

Section 654. On the third day after the close of any primary nominating election, or sooner if all the returns be received, the County Clerk, taking to his assistance two Justices of the Peace of the county of different political parties, if practicable, shall proceed to open said returns and make abstracts of the votes. Such abstracts of votes for nominations for Governor and for Senator in Congress shall be on one separate sheet for each political party, and shall be immediately transmitted to the Secretary of State in like manner as other election returns are transmitted to him. Such abstract of votes for nomination of each party for Lieutenant Governor, Secretary of State, Attorney General, State Auditor, Superintendent of Public Instruction, Railroad Commissioners, Clerk of the Supreme Court, State Treasurer, Justices of the Supreme Court, members of Congress, Judges of the District Court, and members of the Legislative Assembly, who are to be nominated from a district composed of more than one county, shall be on one sheet, separately for each political party, and shall be forthwith transmitted to the Secretary of State, as required by the following sections. The abstract of votes for county and precinct offices shall be on another sheet separately for each political party; and it shall be the duty of said clerk immediately to certify the nomination for each party and enter upon his register of nominations the name of each of the persons having the highest number of votes for nomination as candidates for members of the Legislative Assembly, county and precinct officers, respectively, and to notify by mail each person who is so nominated; provided, that when a tie shall exist between two or more persons for the same nomination by reason of said two or more persons having an equal and the highest number of votes for nomination by one party to one and the same office, the County Clerk shall give notice to the several persons so having the highest and equal number of votes to attend at his office at a time to be appointed by said clerk, who shall then and there proceed publicly to decide by lot which of the persons so having an equal number of

votes shall be declared nominated by his party; and said clerk shall forthwith enter upon his register of nominations the name of the persons thus duly nominated, in like manner as though he had received the highest number of the votes of his party for that nomination; and it shall be the duty of the County Clerk of every county, on receipt of the returns of any general primary nominating election, to make out his certificate stating therein the compensation to which the judges and clerks of election may be entitled for their services, and lay the same before the county Board of County Commissioners at its next term, and the said Board shall order the compensation aforesaid to be paid out of the county treasury. In all primary nominating elections in this State, under the provisions of this law, the person having the highest number of votes for nomination to any office shall be deemed to have been nominated by his political party for that office.

Section 655. The County Clerk, immediately after making the abstracts of votes given in his county, shall make a copy of each of said abstracts and transmit it by mail to the Secretary of State, at the seat of government; and it shall be the duty of the Secretary of State, in the presence of the Governor and the State Treasurer, to proceed within fifteen days after the primary nominating election, and sooner, if all returns be received, to canvass the votes given for nomination for Governor, Senator in Congress, Lieutenant Governor, Attorney General, Superintendent of Public Instruction, Railroad Commissioners, Secretary of State, State Treasurer, State Auditor, Justices of the Supreme Court, Clerk of the Supreme Court, members of Congress, Judges of the District Court, Senators and Representatives, and all other officers to be voted for by the people of the State, or of any district comprising more than one county; and the Governor shall grant a certificate of nomination to the person having the highest number of votes for each office, and shall issue a proclamation declaring the nomination of each person by his party. In case there shall be no choice for nomination for any office by reason of any two or more persons having an equal and the highest number of votes of his party for nomination for either of said offices, the Secretary of State shall immediately give notice to the several persons so having the highest and equal number of votes to attend at his office, either in person or by attorney, at a time to be appointed by said Secretary, who shall then and there proceed to publicly decide by lot which of said persons so having an equal number of votes shall be declared duly nominated by his party; and the Governor shall issue his proclamation declaring the nomination of such person or persons as above provided.

Section 656. Whenever it shall appear by affidavit to the District Court or Judge thereof, or to the Supreme Court or Judge thereof, that an error or omission has occurred or is about to occur in the printing of the name of any candidate or other matter of the official primary nominating election ballots, or that any error has been or is about to be committed in the printing of the ballots, or that the name of any person or any other matter has been or is about to be wrongfully placed upon such ballots, or that any wrongful act has been performed by any judge or clerk of the primary election, County Clerk, canvassing board or member thereof, or by any person charged with the duty under this Act, or that any neglect of duty by any of the persons aforesaid has occurred or is about to occur, such court or judge shall

by order require the officer or person or persons charged with the error, wrongful act, or neglect, to forthwith correct the error, desist from the wrongful act, or perform the duty and do as the court shall order, or show cause forthwith why such error should not be corrected, wrongful act desisted from, or such duty or order performed. Failure to obey the order of any such court or judge shall be contempt. Any person in interest or aggrieved by the refusal or failure of any person to perform any duty or act required by this law shall, without derogation to any other right or remedy, be entitled to pray for a mandamus in the District Court of appropriate jurisdiction, and any proceedings under the provisions of this law shall be immediately heard and decided.

Section 657. If the returns and abstracts of the primary nominating election of any county in the State shall not be received at the office of the Secretary of State within twelve days after said election, the Secretary of State shall forthwith send a messenger to the county board of such county, whose duty it shall be to furnish said messenger with a copy of said returns, and the said messenger shall be paid out of the county treasury of such county the sum of twenty cents for each mile he shall necessarily travel in going to and returning from said county. The County Clerk, whenever it shall be necessary for him to do so in order to send said returns and abstracts within the time above limited, may send the same by telegraph, the message to be repeated, and the county shall pay the expense of such telegram.

Section 658. If any judge or clerk of a primary nominating election, or other officers or persons on whom any duty is enjoined by this law, shall be guilty of any wilful neglect of such duty, or of any corrupt conduct in the discharge of the same, such judge, clerk, officer or other person, upon conviction thereof, shall be punished by imprisonment in the penitentiary not less than one year nor more than five years, or by imprisonment in the county jail not less than three months nor more than one year, or by fine not less than one hundred dollars nor more than five hundred dollars.

Section 659. Any person wishing to contest the nomination of any other person to any State, county, district township, precinct, or municipal office, may give notice in writing to the person whose nomination he intends to contest that his nomination will be contested, stating the cause of such contest briefly, within five days from the time said person shall claim to have been nominated.

Section 660. Said notice shall be served in the same manner as a summons issued out of the District Court three days before any hearing upon such contest as herein provided shall take place, and shall state the time and place that such hearing shall be had. Upon the return of said notice served to the Clerk of the Court he shall thereupon enter the same upon the issue docket as an appeal case, and the same shall be heard worthwith by the District Court; provided, that if the case can not be determined by the District Court in term time, within fifteen days after the termination of such primary nominating election, the Judge of the District Court may hear and determine the same at chambers forthwith, and shall make all necessary orders for the trial of the case and carrying his judgment into effect; provided, that the District Court provision of this section shall not apply to township or precinct officers. In case of contest between any persons claiming to be nominated to any township or precinct office, said notice shall be served in the manner aforesaid, and shall be returned to the District Court of the county.

Section 661. Each party to such contest shall be entitled to subpoenas, and subpoenas duces tecum, as in ordinary cases of law; and the court shall hear and determine the same without the intervention of a jury, in such manner as shall carry into effect the expressed will of a majority of the legal voters of the political party, as indicated by their votes for such nominations, not regarding technicalities or errors in spelling the name of any candidate for such nomination; and the County Clerk shall issue a certificate to the person declared to be duly nominated by said court, which shall be conclusive evidence of the right of said person to hold said nomination; provided, that the judgment or decision of the District Court in term time, or a decision of the Judge thereof in vacation, as the case may be, may be removed to the Supreme Court in such manner as may be provided for removing such causes from the District Court to the Supreme Court.

Section 662. There shall be elected by each political party, subject to the provisions of this law, at said primary nominating election, a committeeman for each election precinct, who shall be a resident of such precinct. Any elector, being a member of their party, may be placed in nomination for committeeman of any precinct by a writing so stating, signed by any five members of any political party being qualified electors of such precinct, and filed in the office of the County Clerk within the time required in this act for the filing of petitions naming individuals as candidates for nomination at the regular biennial primary election; but no such nomination paper shall be filed unless verified by the affidavit of the signers to the effect that they are bona fide members of the political party named in the same. The names of the various candidates for precinct committeemen of each political party shall be printed on the ticket of the same in the same manner as other candidates, and the voter shall express his choice among them in like manner as for such other candidates. The committeeman thus elected shall be the representative of his political party in and for such precinct in all war or subdivision committees that may be formed. The committeemen elected in each precinct in each county shall constitute the county central committee of each of said respective political parties. Those committeemen who reside within the limits of any incorporated city or town shall constitute ex-officio the city central committee of each of said respective political parties, and shall have the same power and jurisdiction as to the business of their several parties in such city matters that the county committee has in county matters, save only the power to fill vacancies in said committee, which power is vested in the county central committee. Each committeeman shall hold such position for the term of two years from the date of the first meeting of said committee immediately following their election. In case of a vacancy happening on account of death, resignation, removal from the precinct, or otherwise, the remaining members of said county committee may select a committeeman to fill the vacancy and he shall be a resident of the precinct in which the vacancy occurred. Said county and city central committees shall have the power to make rules and regulations for the government of their respective political parties in each county and city, not inconsistent with any of the provisions of this law, and to elect the county member of the State central committee, and of the members of the congressional committee, and said committees shall have the same

power to fill all vacancies and make rules in their jurisdiction that the county committees have to fill county vacancies and make rules. Said county and city central committees shall have the power to make nominations to fill vacancies occurring among the candidates of their respective parties nominated for city or county offices by the primary nominating election, where such vacancy is caused by death or removal from the electoral district, but not otherwise. Said committee shall meet and organize by electing a chairman and secretary within five days after the candidates of their respective political parties shall have been nominated. They may select managing or executive committees and authorize such sub-committees to exercise any and all powers conferred upon the county, city, state and congressional central committees respectively by this law.

Section 663. The State Central Committee of each political party in the State of Montana shall select one national committeeman, who shall represent said political party as a member of the National Committee of said party; said committeeman shall be selected in each year in which a president and vice-president of the United States are elected, and such election shall be made prior to the meeting of the national conventions of the respective political parties, and said committeeman shall hold office for a term of four years.

Section 664. Upon the passage and approval of this Act, the State Central Committee of each political party shall select a national committeeman who shall hold office from the date of his selection until the year 1924, and until the selection of his successor.

Section 665. If any candidate for nomination shall be guilty of any wrongful or unlawful act or acts at a primary nominating election which would be sufficient, if such wrongful or unlawful act or acts had been done by such candidate at the regular general election, to cause his removal from office, he shall, upon conviction thereof, be removed from office in like manner as though such wrongful or unlawful act or acts had been committed at a regular general election, notwithstanding that he may have been regularly elected and shall not have been guilty of any wrongful or unlawful act at the election at which he shall have been elected to his office.

Section 666. The candidates for the various State offices, and for the United States Senate, Representatives in Congress and the Legislative Assembly nominated by each political party at such primary and Senators of such political party, whose term of office extends beyond the first Monday in January of the year next ensuing, and the members of the State central committee of such political party, shall meet at the call of the chairman of the State central committee not later than September fifteenth next preceding any general election. They shall forthwith formulate the State platform of their party. They shall thereupon proceed to elect a chairman of the State central committee and perform such other business as may properly be brought before such meeting.

Section 667. Any person who shall offer, or with knowledge of the same permit any person to offer for his benefit, any bribe to a voter to induce him to sign any nomination paper, and any person who shall accept any such bribe or promise of gain of any kind in the nature of a bribe as consideration for signing the same, whether such bribe or promise of gain in the nature of a bribe be

offered or accepted before or after such signing, shall be guilty of a misdemeanor, and upon trial and conviction thereof be punished by a fine of not less than twenty-five nor more than one thousand dollars, and by imprisonment in the county jail of not less than ten days nor more than six months.

Section 668. Any act declared an offense by the general laws of this State concerning caucuses, primaries and elections shall also, in like case, be an offense in and as to all primaries as herein defined, and shall be punished in the same form and manner as therein provided, and all the penalties and provisions of the law as to such caucuses, primaries and elections, except as herein otherwise provided, shall apply in such case with equal force and to the same extent as though fully set forth in this Act.

Section 669. Any person who shall forge any name of a signer or a witness to a nomination paper shall be guilty of forgery, and on conviction punished accordingly. Any person who, being in possession of nomination papers entitled to be filed under this Act, or any Act of the Legislature, shall wrongfully either suppress, neglect or fail to cause the same to be filed at the proper time in the proper office, shall on conviction be punished by imprisonment in the county jail not to exceed six months, or by a fine not to exceed one thousand dollars, or by both such fine and imprisonment in the discretion of the court.

Section 670. The provisions of the laws of this State now in force in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns thereof, the appointment and compensation of officers of election, and all other kindred subjects, shall apply to all primaries, insofar as they are consistent with this Act, the intent of this Act being to place the primary under the regulation and protection of the laws now in force as to elections.

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## PRESIDENTIAL PREFERENCE PRIMARY.

Section 671. In the years when the President and Vice-President of the United States are to be elected, the primary nominating election shall be held on the last Tuesday of May of said year, provided if said date should occur on a legal holiday then said election shall be held the day following said holiday, and all laws pertaining to the nomination of candidates, registration of voters and all other things incident and pertaining to the holding of the regular biennial nominating election shall be in full force and effect.

Section 672. When candidates for the offices of President and Vice President of the United States are to be nominated, every qualified elector of a political party subject to this law shall have opportunity to vote his preference, on his party nominating ballot, for his choice for one person to be the candidate of his political party for President, and one person to be the candidate of his political party for Vice President of the United States, either by writing the names of such persons in blank spaces to be left on said ballot for that purpose or by marking with a cross before the printed names of the persons of his choice, as in the case of other nominations. The names of any persons shall be so printed on said ballots solely on the petition

of their personal supporters in Montana without said persons themselves signing any petition or acceptance. The names of persons in such political party who shall be presented by petition of their supporters for nomination to be party candidates for the office of President or Vice President of the United States, shall be printed on the nominating official ballot, and the ballots shall be marked, and the votes shall be counted, canvassed and returned in like manner and under the same conditions as to names, petitions and other matters, as far as the same are applicable, as the names and petitions of aspirants for the party nominations for the office of Governor and for United States Senator in Congress are or may be by law required to be marked, filed, counted, canvassed and returned.

Section 673. The members of the political parties subject to this law shall elect their party delegates to their national conventions for the nomination of their party candidates for President and Vice-President of the United States, and shall nominate candidates for their party presidential electors at such nominating election, the Governor shall grant a certificate of election to each of the delegates so elected, which certificate shall show the number of votes received in the State by each person of such delegate's political party for nomination as its candidate for President and Vice-President. Nominating petitions for the office of delegate to the respective party national conventions, to be chosen and elected at said nominating election, shall be sufficient if they contain a number of signatures of the members of the party equal to one per cent of the party vote in the State at the last preceding election for representative in Congress; provided that not more than five hundred signatures shall be required on any such petition. A number of such candidates equal to the number of delegates to be elected by each party which is subject to the provisions of this law, receiving, respectively, each for himself the highest number of votes for such office, shall be thereby elected. Every political party subject to the provisions of this law shall be entitled to nominate, at said nominating election, as many candidates for the office of Presidential elector as there are such officers to be elected; that number of aspirants in every such party who shall receive, respectively, each for himself, the highest number of votes of his party for that nomination, shall be thereby nominated as a candidate of his political party for the office of Presidential elector.

Section 674. Every delegate to a national convention of a political party recognized as such organization by the laws of Montana, shall receive from the State treasury the amount of his traveling expenses necessarily spent in actual attendance upon said convention, as his account may be audited and allowed by the Secretary of State, but in no case to exceed two hundred dollars for each delegate; Provided, that such expenses shall never be paid to any greater number of delegates of any political party than would be allowed such party under the plan by which the number of delegates to the Republican national convention was fixed by the Republican party of Montana in the year 1912. The election of such national delegates for political parties not subject to the Direct Primary Nomination Election Law shall be certified in like manner as nominations of candidates of such political parties for elective public offices. Every such delegate to a national convention to nominate candidates for President and Vice President shall subscribe to an oath of office

that he will uphold the Constitution and the laws of the United States and of the State of Montana, and that he will, as such officer and delegate, to the best of his judgment and ability, faithfully carry out the wishes of his political party as expressed by its voters at the time of his election.

Section 675. The committee or organization which shall file a petition to place the name of any person on the nominating ballot of their political party to be voted for by its members for expression of their choice for nomination as the candidate of such party for President or Vice-President of the United States, shall have the right, upon payment thereof, to four pages of printed space in the campaign books of such political party provided for by law. In this space said committee shall set forth their statement of the reasons why such person should be voted for and chosen by the members of their party in Montana and in the Nation as its candidate. Any qualified elector of any such political party who favors or opposes the nomination of any person by his own political party as its candidate for President or Vice President of the United States, may have not exceeding four pages of space in his aforesaid party nominating campaign book, at a cost of one hundred dollars per printed page, to set forth his reasons therefor.

Section 676. Every person regularly nominated by a political party, recognized as such by the laws of Montana, for President or Vice President of the United States, or for any office to be voted for by the electors of the State at large, or for Senator or Representative in Congress, shall be entitled to use four pages of printed space in the State campaign book provided for by law. In this space the candidate, or his supporters with his written permission filed with the Secretary of State, may set forth the reasons why he should be elected. No charge shall be made against candidates for President and Vice President of the United States for this printed space. The other candidates above named shall pay at the rate of one hundred dollars per printed page for said space, and said payment shall not be counted as a part of the ten per cent of one year's salary that each candidate is allowed to spend for campaign purposes.

#### BALLOTS AND VOTING.

Section 677. All ballots cast in elections for public officers within the State (except school district officers), must be printed and distributed at public expense as provided in this chapter. The printing of ballots and cards of instruction for the elections in each county, and the delivery of the same to the election officers, is a county charge, and the expense thereof must be paid in the same manner as the payment of other county expenses, but the expense of printing and delivering the ballots must, in the case of municipal elections, be a charge upon the city or town in which such election is held.

Section 678. Except as in this chapter otherwise provided, it is the duty of the County Clerk of each county to provide printed ballots for every election for public officers in which electors or any of the electors within the county participate, and to cause to be printed in the ballot the name of every candidate whose name has been certified to or filed with the County Clerk in the manner provided for in this chapter. Ballots other than those printed by the respective County Clerks according to the provisions of this chapter

must not be cast or counted in any election. Any elector may write or paste on his ballot the name of any person for whom he desires to vote for any office, and must mark the same as provided in Section 696, and such vote must be counted the same as if printed upon the ballot and marked by the voter, and any voter may take with him into the polling place any printed or written memorandum or paper to assist him in marking or preparing his ballot, except as otherwise provided in this title.

Section 679. In all municipal elections the City Clerk must perform all the duties prescribed for County Clerks in this title.

Section 680. When any vacancy occurs before election day and after the printing of the ballots, and any person is nominated according to the provisions of this title to fill such vacancy, the officer whose duty it is to have the ballots printed and distributed must thereupon have printed a requisite number of pasters containing the name of the new nominee and must mail them by registered letter to the judges of election in the various precincts interested in such election, and the judges of election whose duty it is made by the provisions of this title to distribute the ballots must affix such pasters over the name for which substitution is made, in the proper place on each ballot before it is given out to the elector.

Section 681. Ballots prepared under the provisions of this chapter must be white in color and of a good quality of paper, and the names must be printed thereon in black ink. The ballots used in any one county must be uniform in size, and every ballot must contain the names of every candidate whose nomination for any special office specified in the ballot has been certified or filed according to the provisions of law, and no other names. The list of candidates of the several parties shall be placed in separate columns of the ballot, in such order as the authorities charged with the printing of the ballots shall decide. As near as possible the ballot shall be in the following form: (Stub hereinafter provided for in this section.)

Perforated Line

## DEMOCRAT

## REPUBLICAN

## LABOR PARTY

For Governor <input type="checkbox"/> <input type="checkbox"/>	For Governor <input type="checkbox"/> <input type="checkbox"/>	For Governor <input type="checkbox"/> <input type="checkbox"/>
Joseph K. Toole	John E. Rickards	Fred Whiteside
For Lieut. Governor <input type="checkbox"/> <input type="checkbox"/>	For Lieut. Governor <input type="checkbox"/> <input type="checkbox"/>	For Lieut. Governor <input type="checkbox"/> <input type="checkbox"/>
Frank C. Higgins	Alex Botkin	
For Sec'y of State <input type="checkbox"/>	For Sec'y of State <input type="checkbox"/>	For Sec'y of State <input type="checkbox"/>
Geo. M. Hayes	Louis Rotwitt	W. R. Allen

And continuing in like manner as to all candidates to be voted for at such election.

Section 682. Every ballot must also contain the name of the party, or principle which the candidate in the respective columns represent, as contained in the certificates of nomination; provide, however, that where any person is nominated for the same office by more than one party or convention his name shall be placed upon the ticket under the designation of the party which first nominated him, unless he declines, in writing, one or more of such nominations, or by written election indicates the party designation under which he desires his name to be printed, or if he was nominated by more than one party or convention at the same time shall, within the time fixed by law for filing certificates of nomination, file with the officer with whom his certificate of nomination is required to be filed a written election indicating the party designation under which he desires his name to be printed on the ballot, and it shall be so printed. If he shall fail or neglect to so file such an election, the officer with whom the certificate of nomination is required to be filed shall place his name under the designation of either of the parties by which he was nominated, but under no other designation whatever, and no person who has been nominated by petition or otherwise shall have his name printed upon the ticket if the same already appears under a party designation.

Section 683. Below the names of candidates for each office there must be left a blank space large enough to contain as many written names of candidates as there are persons to be elected. There must be a margin on each side of at least half an inch in width, and a reasonable

space between the names printed thereon, so that the voter may clearly indicate, in the way hereinafter provided, the candidate or candidates for whom he wishes to cast his ballot.

Section 684. The ballot shall be printed on the same leaf with a stub, and separated therefrom by a perforated line. The part above the perforated line, designated as the stub, shall extend the entire width of the ballot, and shall be of sufficient depth to allow the following instructions to voters to be printed thereon, such depth to be not less than two inches from the perforated line to the top thereof, upon the face of which stub shall be printed, in type known as brevier capitals, the following: "This ballot should be marked with an 'X' in the square before the name of each person or candidate for whom the elector intends to vote." In cases of a ballot containing a constitutional amendment, or other question to be submitted to a vote of the people by marking an "X" in the square before the answer of the question or amendment submitted. The elector may write in the blank spaces, or paste over another name, the name of any person for whom he wishes to vote, and vote for such person by marking an "X" in the square before such name. On the back of the stub shall be printed or stamped by the County Clerk or other officer whose duty it is to provide the ballots, the consecutive number of the ballot, beginning with number "1," and increasing in regular numerical order to the total number of ballots required for the precinct.

Section 685. All of the official ballots of the same sort prepared by any officer or board for the same balloting place, shall be of precisely the same size, arrangement, quality and tint of paper, and kind of type, and shall be printed in black ink of the same tint, so that when the stubs, numbered as aforesaid, shall be detached therefrom it shall be impossible to distinguish any one of the ballots from the other ballots of the same sort, and the names of all candidates printed upon the ballot shall be in type of the same size and character.

Section 686. Whenever the Secretary of State has duly certified to the County Clerk any question to be submitted to the vote of the people, the County Clerk must print the ballot in such form as will enable the electors to vote upon the question so presented in the manner provided by law. The County Clerk must also prepare the necessary ballots whenever any question is required by law to be submitted to the electors of any locality, and any of the electors of the State generally, except that as to all questions submitted to the electors of a municipal corporation alone, the City Clerk must prepare the necessary ballots.

Section 687. The County Clerk must provide for each election precinct in the county one and one-half times as many ballots as there are electors registered in the precinct. If there is no registry in the precinct the County Clerk must provide ballots to the number of one and one-half times the number of electors who voted at the last preceding election in the precinct. He must keep a record in his office, showing the exact number of ballots, with numbered stubs attached, that are delivered to the judges of each precinct. In municipal elections it is the duty of the City Clerk to provide ballots as specified in this section.

Section 688. Voting may commence as soon as the polls are open, and may be continued during all the time the polls remain open.

## OPENING AND CLOSING OF POLLS.

Section 689. The polls must be opened at 8 o'clock on the morning of election day and must be kept open continuously until 6 o'clock in the afternoon of said day, when the same must be closed.

Section 690. Before the judges receive any ballots they must cause it to be proclaimed aloud at the place of election that the polls are open, and thirty minutes before the closing of the polls proclamation must be made that the polls will close in one-half hour.

Section 691. When the polls are closed that fact must be proclaimed aloud at the place of election; and after such proclamation no ballots must be received.

Section 692. All officers upon whom is imposed by law the duty of designating the polling places, must provide in each polling place designated by them a sufficient number of places, booths or compartments, each booth or compartment to be furnished with a door or curtain sufficient in character to screen the voter from observation, and must be furnished with such supplies and conveniences as shall enable the elector to prepare his ballot for voting, and in which electors must mark their ballots, screened from observation, and a guard rail so constructed that only persons within such rail can approach within ten feet of the ballot boxes, or the places, booths, or compartments herein provided for. The number of such places, booths or compartments must not be less than one for every fifty electors, or fraction thereof, registered in the precinct. In precincts containing less than twenty-five registered voters, the election may be conducted under the provisions of this chapter without the preparation of such booths or compartments, as required by this section.

Section 693. No person other than electors engaged in receiving, preparing or depositing their ballots, or a person present for the purpose of challenging the vote of an elector about to cast his ballot, is permitted to be within said rail; and in cases of small precincts where places, booths or compartments are not required, no person engaged in preparing his ballot shall, in any way, be interfered with by any person, unless it be some one authorized by the provisions of this chapter to assist him in preparing his ballot; nor shall any officer of election do any electioneering on election day. No person whatsoever shall do any electioneering on election day, within any polling place, or any building in which an election is being held, or within twenty-five feet thereof; said space of twenty-five feet to be protected by ropes and kept free of trespassers; nor shall any person obstruct the doors or entries thereto, or prevent free ingress to and egress from said building. Any election officer, sheriff, constable, or other peace officer, is hereby authorized and empowered, and it is hereby made his duty, to clear the passageway and prevent such obstruction, and to arrest any person so doing. No person shall remove any ballot from the polling place before the closing of the polls. No person shall show his ballot after it is marked to any person in such a way as to reveal the contents thereof, or the name of the candidate or candidates for whom he has marked his vote; nor shall any person solicit the elector to show the same; nor shall any person, except the judge of election, receive from any elector a ballot prepared for voting. No elector shall receive a ballot from any other person than one of the judges of election having charge of the ballots; nor

shall any person other than such judge of election deliver a ballot to such elector. No elector shall vote, or offer to vote, any ballot except such as he has received from the judges of election having charge of the ballots. No elector shall place any mark upon his ballot by which it may afterwards be identified as the one voted by him. Every elector who does not vote a ballot delivered to him by the judges of election having charge of the ballots, shall, before leaving the polling place, return such ballot to such judges.

Section 694. The expense of providing such places or compartments, ropes and guard rails is a public charge, and must be provided for in the same manner as the other election expenses.

Section 695. At any election the judges of election must designate two of their number whose duty it is to deliver ballots to the qualified electors. Before delivering any ballot to an elector, the said judges must print on the back, and near the top of the ballot, with the rubber or other stamp provided for the purpose, the designation "official ballot" and the other words on same, as provided for in Section 603 of this code, and the clerks must enter on the poll list the name of such elector and the number of the stub attached to the ballot given him. Each qualified elector must be entitled to receive from the judges one ballot.

Section 696. On receipt of his ballot the elector must forthwith, without leaving the polling place and within the guard rail provided, and alone, retire to one of the places, booths, or compartments, if such are provided, and prepare his ballot. He shall prepare his ballot by marking an "X" in the square before the name of the person or persons for whom he intends to vote. In case of a ballot containing a constitutional amendment, or other question to be submitted to the vote of the people, by marking an "X" in the square before the answer of the question, or amendment submitted. The elector may write in the blank spaces, or paste over any other name, the name of any person for whom he wishes to vote, and vote for such person by marking an "X" before such name. No elector is at liberty to use or bring into the polling place any unofficial sample ballot. After preparing his ballot, the elector must fold it so the face of the ballot will be concealed and so that the endorsement stamped thereon may be seen, and hand the same to the judges in charge of the ballot box, who shall announce the name of the elector and the printed or stamped number on the stub of the official ballot so delivered to him, in a loud and distinct tone of voice. If such elector be entitled then and there to vote, and if such printed or stamped number is the same as that entered on the poll list as the number on the stub of the official ballot last delivered to him by the ballot judge, such judge shall receive such ballot, and after removing the stub therefrom in plain sight of the elector and without removing any other part of the ballot, or in any way exposing any part of the face thereof below the stub, shall deposit each ballot in the proper ballot box for the reception of voted ballots, and the stubs in a box for detached ballot stubs. Upon voting, the elector shall forthwith pass outside the guard rail, unless he be one of the persons authorized to remain within the guard rail for other purposes than voting.

Section 697. No more than one person must be allowed to occupy any one booth at one time, and no person must remain in or

occupy a booth longer than may be necessary to prepare his ballot, and in no event longer than five minutes, if the other booths or compartments are occupied.

Section 698. Any elector who by accident or mistake spoils his ballot, may, on returning said spoiled ballot, receive another in place thereof.

Section 699. Any elector who declares to the judges of election, or when it appears to the judges of election that he cannot read or write, or that because of blindness or other physical disability he is unable to mark his ballot, but for no other cause, must upon request receive the assistance of two of the judges, who shall represent different parties, in the marking therof, and such judges must certify on the outside thereof that it was so marked with their assistance, and must thereafter give no information regarding the same. The judges must require such declaration of disability to be made by the elector under oath before them, and they are hereby authorized to administer the same. No elector other than the one who may, because of his inability to read or write or of his blindness or physical disability, be unable to mark his ballot, must divulge to any one within the polling place the name of any candidate for whom he intends to vote, or ask or receive any assistance of any person within the polling place in the preparation of his ballot.

Section 700. The person offering to vote must hand his ballot to the judges and announce his name, and in incorporated cities and towns any such person must also give the name of the street, avenue or location of his residence, and the number thereof, if it be numbered, or such clear and definite description of the place of such residence as shall definitely fix the same.

Section 701. The judges must receive the ballot, and before depositing it in the ballot box must, in an audible tone of voice, announce the names, and in incorporated towns and cities the judges must also announce the residence of the person voting, and the same must be recorded on each poll book.

Section 702. If the name be found on the official register in use at the precinct where the vote is offered, or that the person offering to vote produce and surrender a proper registry certificate, and the vote is not rejected upon a challenge taken, the judges must immediately and publicly, in the presence of all the judges, place the ballot, without opening or examining the same, in the ballot box.

Section 703. When the ballot has been placed in the box, one of the judges must write the word "Voted" opposite the number of the person on the check list for the precinct.

Section 704. The judges of election in each precinct, at every general or special election, shall, in the precinct register book, which shall be certified to them by the County Clerk, mark a cross (X) upon the line opposite to the name of the elector before any elector is permitted to vote, the judges of election shall require the elector to sign his name upon one of the precinct register books, designated by the County Clerk for that purpose, and in a column reserved in the said precinct books for the signature of electors. If the elector is not able to sign his name, he shall be required by the judges to produce two freeholders who shall make an affidavit before the judges of election, or one of them, in substantially the following form:

STATE OF MONTANA,

County of.....

{ ss.

"We, the undersigned witnesses, do swear that our names and signatures are genuine, and that we are each personally acquainted with.....(the name of the elector) and that we know that he is residing at....., and that we believe that he is entitled to vote at this election, and that we are each freeholders in the county." Which affidavit shall be filed by the judges, and returned by them to the County Clerk, with the return of the election; one of the judges shall thereupon write the elector's name, and note the fact of his inability to sign, and the names of the two freeholders who made the affidavit herein provided for. If the elector fails or refuses to sign his name, and, if unable to write, fails to procure two freeholders who will take the oath herein provided, he shall not be allowed to vote. Immediately after the election and canvass of the returns, the judges of election shall deliver to the County Clerk the copy of said official precinct register sealed, with the election returns and poll book, which have been used at said election.

Section 705. Each clerk must keep a list of persons voting, and the name of each person who votes must be entered thereon and numbered in the order voting. Such list is known as the poll list and forms a part of the poll book of the precinct.

Section 706. Any person offering to vote may be orally challenged by any elector of the county upon either or all of the following grounds:

1. That he is not the person whose name appears on the register or check list.
2. That he is an idiot or insane person.
3. That he has voted before that day.
4. That he has been convicted of a felony and not pardoned.

Section 707. If the challenge is on the ground that he is not the person whose name appears on the official register, the judges must tender him the following oath:

"You do swear (or affirm) that you are the person whose name is entered on the official register and check list."

Section 708. If the challenge is on the ground that the person challenged has voted before that day, the judges must tender to the person challenged this oath:

"You do swear (or affirm) that you have not before voted this day."

Section 709. If the challenge is on the ground that the person challenged has been convicted of a felony, the judges must tender him the following oath:

"You do swear (or affirm) that you have not been convicted of a felony."

Section 710. Challenges upon the grounds either:

1. That the person challenged is not the person whose name appears on the official register; or

That the person has before voted that day, are determined in favor of the person challenged by his taking the oath tendered.

2. A challenge upon the ground that the person challenged has been convicted of a felony and not pardoned must be determined in favor of the person challenged on his taking the oath tendered, unless the fact of conviction be proved by the production of an authenticated copy of the record or by the oral testimony of two witnesses. If the person challenged asserts that he has been convicted of a felony and pardoned therefor, he must exhibit his pardon or a proper certified copy thereof to the judges, and if the pardon be found sufficient, the judges must tender to him the following oath: "You do swear that you have not been convicted of any felony other than that for which a pardon is now exhibited."

Upon taking this oath the person challenged must be permitted to vote if otherwise qualified, unless a conviction of some other felony be proved, as in this section provided for the proof of a conviction.

Section 711. Challenges for causes other than those specified in the preceding section must be tried and determined by the judges of election at the time of the challenge.

Section 712. If any person challenged refuses to take the oaths tendered, or refuses to be sworn and to answer the question touching the matter of residence, he must not be allowed to vote.

Section 713. If the challenge is determined against the person offering to vote, the ballot must, without examination, be destroyed by the judges in the presence of the person offering the same; if determined in his favor the ballot must be deposited in the ballot box.

Section 714. The judges must cause each of the clerks to keep a list showing:

1. The names of all persons challenged.
2. The grounds of such challenges.
3. The determination of the judges upon the challenge.

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## ABSENT VOTERS.

Section 715. Any qualified elector of this State, having complied with the laws in regard to registration, who is absent from the county of which he is an elector on the day of holding any general or special election, or primary election for the nomination of candidates for such general election, of any municipal general, special or primary election, may vote at any such election as hereinafter provided.

Section 716. At any time within thirty days next preceding such election any voter expecting to be absent on the day of election from the county in which his voting precinct is situated, may make application to the County Clerk of such county, or to the City or Town Clerk, in the case of a municipal general, special or primary election, for an official ballot or official ballots to be voted at such election, as an absent voter's ballot or ballots.

Section 717. Application for such ballots shall be made on a blank to be furnished by the County Clerk of the county of which the applicant is an elector, or the City or Town Clerk, if it be a municipal general, special or primary election, and shall be in substantially the following form:

I, ..... a duly qualified elector of the ..... precinct, in the county of ..... and State of Montana, and to the best of my knowledge and belief entitled to vote in such precinct at the next election, expecting to be absent from the said county on the day for holding such election, hereby make application for an official ballot to be voted by me at such election.

(Signed) .....  
Postoffice address to which ballot is to be mailed:

-----  
Section 718. There shall also be printed on said application an affidavit substantially in the following form:

State of Montana, County of ..... ss.

..... and ..... being severally duly sworn, each for himself on his oath says: That he is a resident and registered elector of the precinct mentioned in the foregoing application and that he knows the person whose signature is appended to the said application; that the said person is the identical person named in said application and resides in the said precinct.

-----  
Subscribed and sworn to before me this ..... day of

....., A. D. 19.....

This affidavit must be subscribed by the witnesses and sworn to before some officer authorized to administer oaths, and the application shall not be deemed complete without his affidavit.

The voter making such application shall pay or transmit therewith to the County, City or Town Clerk the sum of Thirty Cents which shall be treated as official receipts of the office. No other fee shall be charged by such Clerk for any services in connection with such voting.

Section 719. Such application blank shall upon request therefore be sent by such County or City or Town Clerk to any elector of the county, by mail, and shall be delivered to any elector upon application made personally at the office of such County or City or Town Clerk; provided, however, that no elector shall be entitled to receive such a ballot on election day, nor unless his application is made to or received by the County or City or Town Clerk before the delivery of the official ballots to the judge of election.

Section 720. Upon receipt of such application properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been printed, the said County or City or Town Clerk shall send to such elector by mail, postage prepaid, one official ballot, or if there be more than

one ballot to be voted by an elector of such precinct, one of each kind, and shall enclose with such ballot or ballots an envelope, to be furnished by such County or City or Town Clerk, which envelope shall bear upon the front thereof the name, official title and post-office address of such County or City or Town Clerk, and upon the other side a printed affidavit, in substantially the following form:

State of Montana, County of ..... ss.

I, ..... do solemnly swear that I am a resident of the ..... precinct, (and if he be a resident of a city or town, add: "Residing at ..... in the town or city of ....."), county of ..... and State of Montana, and entitled to vote in such precinct at the next election; that I expect to be absent from the said county of my residence on the day of holding such election and that I will have no opportunity to vote in person on that day.

.....  
Subscribed and sworn to before me this ..... day of ..... 19.....; and I hereby certify that the affiant exhibited to me the enclosed ballot or ballots for inspection before marking, and that the same was (or were) then unmarked, and that he then in my presence, and in the presence of no other person, and in such manner that I could not see his vote, marked said ballot (or ballots) and enclosed and sealed the same in this envelope. That the affiant was not solicited or advised by me to vote for or against any candidate or measure.

.....  
.....

Section 721. Such voter shall make and subscribe the said affidavit before an officer authorized by law to administer oaths and who has an official seal, and may do so at any place in the State of Montana, or in any other state or territory of the United States, before any officer authorized by the laws of this State to take acknowledgements of instruments without the State, and such voter shall thereupon, in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot see the vote, and such ballot or ballots shall thereupon, in the presence of such officer, be folded by such voter so that each ballot will be separate, and so as to conceal the vote, and shall be, in the presence of such officer, placed in such envelope without detaching any stub or stubs, and the said envelope

securely sealed. Said officer shall thereupon append his signature and official title and affix his seal at the end of said jurat and certificate. Said envelope shall be mailed by such absent voter, postage prepaid, or delivered to the County or City or Town Clerk, as the case may be.

Section 722. Upon receipt of such envelope, such County or City or Town Clerk shall forthwith enclose the same, unopened, together with the written application of such absent voter, in a larger envelope, which shall be securely sealed and endorsed with the name of the proper voting precinct, the name and official title of such Clerk, and the words, "This envelope contains an absent voter ballot and must be opened only on election day at the polls when the same are open," and such Clerk shall safely keep the same in his office until the same is delivered or mailed by him as provided in the next section.

Section 723. In case such envelope is received by such Clerk prior to the delivery of the official ballots to a judge of election of the precinct in which such absent voter resides, said larger envelope, containing the said voter's envelope and his said application, as above provided, shall be delivered to the judge of election of such precinct, to whom the official ballots of the precinct shall be delivered, and at the same time. In case the official ballots for such precinct shall have been delivered to the judge of election prior to the time of the receipt by the said Clerk of said absent voter's envelope, such Clerk shall immediately after enclosing such voter's envelope, and his application in a larger envelope, and after endorsing the latter as provided in the foregoing section, address and mail the larger envelope, postage prepaid, to the said judge of election of said precinct, as hereinafter further provided.

Section 724. The ballot or ballots to be delivered or marked by such absent voter, shall be one of the regular official ballots to be used at such election and of each kind of such official ballots, if there be more than one kind to be voted, beginning with ballot one and following consecutively, according to the number of applications for such absent voter ballots. The County or City or Town Clerk shall keep a record of all ballots so delivered for the purpose of absent voting, as well as of ballots, if any, marked before him as hereinafter provided, and shall make and deliver to the judge of election, to whom the ballots for the precinct are delivered, and at the time of the delivery of such ballots, a certificate stating the number of ballots delivered or mailed to absent voters, as well as those marked before him, if any, and the names of the voters to whom such ballots shall be delivered or mailed or by whom they shall have been marked, if marked before him.

725. The judges of election, at the opening of the polls, shall note on the poll list, when one is required by law to be kept, opposite the numbers corresponding to the numbers of the ballots issued to absent voters, as shown by the certificate of the County or City or Town Clerk, the fact that such ballots were issued to absent voters, and shall reserve said numbers for the absent voters. The notation may be made by writing the words, "Absent Voters" opposite such numbers.

The judges shall not allow any names to be inserted in the poll list on the lines corresponding to said numbers, except the name of the elector entitled to each particular number according to the

certificate of the County or City or Town Clerk, and the number of his ballot. Any so rejected shall be placed together with the voter's application and the absent voter's envelope provided for the purpose by the Clerk and Recorder or City or Town Clerk which shall be sealed and endorsed by the words, "Rejected absent voter ballots"

numbered.....and shall put thereon the number of the ballots given to absent voters according to the County or City or Town Clerk's certificate. There shall be a separate enclosing envelope for the ballot or ballots of each absent voter whose ballot or ballots may have been rejected and such envelopes shall be placed in an envelope together with the other ballots, and shall not be opened without order of a court of competent jurisdiction.

Section 726. Any qualified elector who is present in his county after the official ballots of such county have been printed, and who has reason to believe that he will be absent from such county on election day, as provided in Section 716, may vote before he leaves his county, in like manner as an absent voter, before the County or City or Town Clerk or some officer authorized to administer oaths and having an official seal; and the provisions of this Act shall be deemed to apply to such voting. If the ballot be marked before the County or City or Town Clerk, it shall be his duty to deal with it in the same manner as if it had come by mail.

Section 727. At any time between the opening and closing of the polls on such election day, the judges of election of such precinct shall first open the outer envelope only, and compare the signature of such voter to such application, with the signature to such affidavit.

In case the judge finds the affidavit is sufficient and that the signatures correspond, and that the applicant is then a duly qualified elector of such precinct and has not voted at such election, they shall open the absent voter's envelope, in such manner as not to destroy the affidavit thereon, and take out the ballot or ballots therein contained, and without unfolding the same, or permitting the same, to be opened or examined, shall ascertain whether the stub or stubs is or are still attached to the ballot or ballots and whether the number thereon corresponds to the number in the County or City or Town Clerk's certificate. If so, they shall endorse the same in like manner that other ballots are endorsed, shall detach the stub, as in other cases, and deposit the ballot or ballots in the proper ballot box or boxes, and make in their election list and books the proper entries to show such elector to have voted. In case such affidavit is found to be insufficient or that the said signatures do not correspond, or that such applicant is not then a duly qualified elector of such precinct, such vote shall not be allowed, but without opening the absent voter envelope, the judges of such election shall mark across the face thereof "rejected as defective," or "rejected as not an elector," as the case may be. The absent voter envelope, when such absent vote is voted, and the absent voter envelope with its contents, unopened, when such absent vote is rejected, shall be deposited in the ballot box containing the general or party ballots, as the case may be, retained and preserved in the manner by law provided for the retention and preservation of official ballots voted at such election. If upon opening the absent voter's envelope, it be found that the stub of any ballot has been detached, or that the number thereon

does not correspond to the number in the County or City or Town Clerk's certificate of the number issued to such absent voter, the ballot shall be rejected and it shall then and there, and without looking at the face thereof, be marked on the back, "rejected on

the ground of.....," filling the blank with the statement of the reason of the rejection; which statement shall be dated and signed by the majority of the judges. The ballot or ballots so rejected together with the absent voter's envelope bearing the application and the said application shall all be enclosed in an envelope which shall be then and there securely sealed and on such envelope the judges shall write or cause to be written (if not already printed thereon) the words, "rejected ballot of absent voter" (writing in the name of the elector.) "The rejected ballot or ballots is

or are....." The judges shall designate the rejected ballot as "General ballot" if it be a ballot for candidates that be rejected. If the rejected ballot be a one put on a question submitted to the vote of the electors, the judges shall designate such

ballot as Ballot Question No..... in the certificate on the envelope. There shall be a separate enclosing envelope for the ballot or ballots of each absent voter whose ballot or ballots may have been rejected and such enclosing envelope shall be placed in the envelope in which the other ballots voted or required to be placed and shall not be opened without an order of a court of competent jurisdiction. The County or City or Town Clerk shall provide and have delivered to the judge of election, suitable envelopes for enclosing rejected absent voters' ballots.

Section 728. Whenever the County or City or Town Clerk shall mail the envelope containing an absent voter's envelope and ballots, as provided in this Act, to a judge of election, he shall place thereon the proper postage and the proper stamp or stamps and the proper markings to secure the transmission and delivery thereof, as a special delivery letter in accordance with the postal laws of the United States and the regulations of the United States postoffice.

Section 729. Any qualified elector who has marked his ballot as hereinbefore provided, who shall be in his precinct on election day, shall be permitted to vote in person, provided his said ballot has not already been deposited in the ballot box.

Section 730. In case any elector who shall have marked his ballot as an absent voter, as in this Act provided, shall appear at the voting place of his precinct on election day, before his ballot or ballots shall have been deposited in the ballot box, his envelope containing his ballot shall if he so desires, be opened in his presence, and the ballot or ballots found therein, shall be deposited in the ballot box, as hereinbefore provided. If such elector shall ask for a new ballot or ballots with which to vote, he shall be entitled to the same, but in such case his absent voter envelope shall not be opened, and the judges shall mark, or cause to be marked, across the face thereof, "unopened because voter appeared and voted in person," and then deposit in the said envelope, unopened in the ballot box. If the envelope containing the absent voter ballot shall have been marked, "rejected as defective," and deposited in the ballot box, such elector so appearing shall have the same

right to vote as if he had not attempted to vote as an absent voter. If voting machines are there used, he shall vote by machine, as other voters.

Section 731. If the aforesaid envelope, containing an absent voter ballot shall have been deposited, unopened, in the ballot box, the said envelope shall not be opened, without an order of a court of competent jurisdiction.

Section 732. If any person shall wilfully swear falsely to any affidavit in this Act provided for, he shall, upon conviction thereof, be deemed guilty of perjury and shall be punished as in such cases by law provided. If the County or City or Town Clerk or any election officer shall refuse or neglect to perform any of the duties prescribed by this Act, or shall violate any of the provisions thereof, or if any officer taking the affidavit provided for in Section five shall make any false statement in his certificate thereto attached, or look at any mark or marks made by the voter upon any such ballot, or permit or allow any other person to be present at the marking of any such ballot by the voter, or to see any mark or marks made thereon by the voter, he shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding five hundred dollars or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

Section 733. In and for precincts where voting machines are to be used, the County or City or Town Clerk shall cause to be printed and shall provide ballots in the regular form of printed ballots and sufficient printed ballots and sufficient in number for possible absent voters and also poll books and ballot boxes such as lists required for the precincts in which printed ballots are used. Absent voters' ballots received in such precincts shall be cast as in this Act provided and all provisions of this Act and of the Election Laws shall apply to the casting, canvassing, counting and returning of such ballots and votes except as herein otherwise provided. In making the canvass the votes cast by absent voters shall be added by the judges of election to the votes cast on the voting machines, and the results determined and reported accordingly.

Section 734. In case any elector who shall have taken advantage of the provisions of this Act, and marked his ballot as an absent voter, as in this Act provided, shall not leave his county, or shall return thereto on or before election day, and in time to allow him to go to the polls, to-wit, to the voting place in his precinct and to be admitted therein before the close of the polls, it shall be his duty so to go to the said voting place and to present himself to the judges of election at said voting place, and if he shall wilfully neglect so to do, he shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars or by imprisonment not more than thirty days in the county jail, or by both such fine and imprisonment. If such an elector so appears, the judges of election shall note in the poll books and lists the fact of his appearance, as well as whether or not he voted in person.

Section 735. If any elector of this State or any other person or any officer shall, in any matter connected with voting outside of the State under the provisions of this law, in any manner violate any of the provisions of this Act or of any of the election or penal laws of this

State applicable to voting under this Act, in such manner that such violation would constitute an offense if committed within the State, then and in such case such elector, person, or officer shall be deemed guilty of a like offense and be punishable to the same extent and in the same manner as if the act, omission or violation had been committed within this State, and may be prosecuted in any county in this State; provided, however, that if the defendant or one of several defendants be a resident of the State, he may have the case removed to the county in which the ballot was cast, or was to be cast, if not, in fact cast; and provided, further, that the court may order any such case removed to such county, subject always to the power of the court of any county to grant a change of venue as in other cases.

Section 736. Any qualified duly registered elector of this State, who is absent from the State of Montana and the county of which he is an elector on the date of holding any general election, and who is in the actual military service of the State of Montana or of the United States in the army or navy thereof, or who is in the actual service of the National Red Cross or the Young Men's Christian Association or the Young Women's Christian Association or the Knights of Columbus or any similar organization auxiliary to the army or navy, and recognized by the Government of the United States, shall be entitled to vote as fully as if he were present at his place of residence in the manner hereinafter provided.

Section 737. Within thirty days after the approval of this Act, and each thirty days following, and thereafter not later than five days after the general primary election held preceding the general election, the County Clerk of each and every county within the State of Montana shall make out and forward by registered mail to the Secretary of State and the Adjutant General of the State of Montana a separate list of the names of all persons who are qualified registered electors known to him to be in the actual service of the army or navy of the State of Montana or of the United States of America or any of the organizations mentioned in Section one of this Act, and also the names of all persons proven to him to be so engaged by the affidavit of two qualified electors residing within the county.

Section 738. It shall be the duty of the Secretary of State to prepare and make a general register on cards by counties, in which shall be entered the names of the voters of this State absent from their respective counties in time of war in the actual military service of the State of Montana, or of the United States of America, or in the actual service of any of the organizations named in Section 736 of this Code, from the list of names so certified to the said Secretary of State by the County Clerks of the several counties of the State of Montana. Said cards in each county shall be arranged in alphabetical order of the names of the voters; and shall contain the name and residence and precinct of each such voter and the name of the county and city or town in which he resides, and so far as can be ascertained without prejudice to the military purposes of the Federal Government of the place or post of duty at which such elector is stationed.

It is hereby made the duty of the Secretary of State and the Adjutant General of the State of Montana to secure the necessary information to complete such general register from the appropriate naval and military authorities or from the most accessible source from which said information can be obtained. The Secretary of State

shall furnish proper blanks to the several County Clerks and to the Adjutant General for such purpose and such general register shall be a public record and shall at all reasonable times be open to inspection by any voter in this State.

It is hereby made the duty of every public officer and every citizen to furnish to the Secretary of State such information as he may possess relating to such absent voter, and any person who shall refuse so to do, or who furnishes false information in reference to such absent voters, shall be deemed guilty of a felony, and shall upon conviction thereof be punished by imprisonment in the State prison for not less than one year nor more than three years.

Section 739. It is hereby made the duty of the Secretary of State, immediately and within twenty-four hours after the canvass of the returns for State offices shall have been completed of any general primary election, to transmit by telegram to each of the several County Clerks of the State of Montana the names of any and all candidates of each and every political party which may be entitled to be printed on the official ballot for the general election to be held within the State of Montana.

Section 740. It is hereby made the duty of the County Clerks of the several counties of the State of Montana to have prepared and printed the official ballot to be used at the general election not more than ten days after the canvass and return of the general primary election and the receipt by him from the Secretary of State of the names of persons to be printed on the official ballots to be used in said general election.

Section 741. It is hereby made the duty of the Secretary of State, within ten days after a general primary election, to notify the County Clerks of the several counties of the State of Montana the number of absent voters as shown by the register in this Act provided for in each of the several counties. The County Clerk of each county shall forward to the Secretary of State one official ballot for each of said persons so absent from the county in which he resides, and which said official ballot shall bear endorsed in the proper place, as provided by law, the stamp showing that said ballot is an official ballot, and shall have stamped across the face thereof the words, "Ballot of absent voter engaged in military service." The County Clerk of each county shall not later than ten days after he shall have been notified of the result of the general primary election held preceding the general election, send to the Secretary of State by registered mail, postage prepaid, one official ballot, or if there be more than one ballot to be voted by the elector of such county, one of each kind, for each of said voters.

Section 742. The County Clerk of each county shall cause to be prepared and printed a sufficient number of official envelopes to be used for voters absent from their counties as shown by the general register herein provided for. Upon one side of said envelope shall be printed, substantially in the following form, the following:

Official War Ballot	Name.....	County.....	Date.....
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SECRETARY OF STATE,  
Helena,  
Mont.

Upon the other side of such envelope shall be printed the following:

**OATH OF ELECTOR.**

I do solemnly swear or affirm that I am a citizen of the United States and am now of the age of.....years, and that I am a resident of the County of....., State of Montana, and was such resident at the time of my entry in the military service of the United States and am entitled to vote in such county at the general election to be held in the State of Montana on the fifth day of November, 1918. That I am at the present time engaged in the actual service of the.....(here insert the branch of service engaged in), and absent from the State of Montana by reason of such service, and that I will have no opportunity to vote in person on that date; and that I have not received or offered, do not expect to receive, have not paid, offered or promised to pay, contributed, offered, or promised to contribute to another, to be paid or used in money or other valuable thing as compensation or reward for the giving or withholding of a vote at this election, and have not made any promise to influence the giving or withholding of any such vote, and that I have not made or become, directly or indirectly, interested in any bet or wager depending upon the result of this election.

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Signature of Elector.

I, the undersigned, do hereby certify that the affiant whose name is subscribed to the foregoing affidavit was sworn to by and before me, and that said affiant exhibited to me the enclosed ballot (or ballots) for inspection before marking, and that the same was (or were) then unmarked, and that he then, in the presence of myself, and in the presence of no other person, and in such manner that I could not see his vote, marked said ballot or ballots, and enclosed and sealed the same in this envelope; that the affiant was not solicited or advised by me to vote for or against any candidate or measure.

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Section 743. Any such voter shall sign the oath and statement provided for in the preceding section before a person authorized to administer an oath as in this Act provided, and may do so at any place in which the elector may be present, and such elector shall thereupon, in the presence of such person authorized to administer an oath,

and no other person, mark such ballot or ballots in such manner that such person cannot see the vote on such ballot or ballots, which shall thereupon, in the presence of such person, be folded by the voter so the ballot will be separate so as to seal the vote, and shall be, in the presence of such person, placed in said envelope without detaching any stub or stubs, and the said envelope securely sealed. The person before whom such envelope is sealed shall append his signature, and title at the end of the certificate herein provided, said envelope shall be mailed by such absent voter, postage prepaid, to the Secretary of State of Montana.

Section 744. Every elector authorized by the provisions of this Act may cast his ballot at any time before 6 o'clock p. m. of the day on which said general election will be held.

Section 745. The Secretary of State shall, within forty-eight hours after the receipt of the official ballots and envelopes, as provided for in this Act, from the several County Clerks, cause the official ballot or ballots and envelopes so received to be enclosed in a separate envelope and addressed to the qualified elector, to be delivered to the Adjutant General of the State of Montana, who shall cause to be deposited in the United States mail such ballot, addressed to such qualified electors, to be forwarded to them through such channels and in such manner as may have been directed by the military authorities of the Government of the United States, and by such means as shall in the judgment of the Adjutant General of the State of Montana, be best suited to secure their safe and timely delivery for the use of the voters.

Section 746. Upon receipt of the envelope containing the ballot of any elector by the Secretary of State, he shall, if the same be received by him five days before the date of the general election, forward the same, unopened, in a large envelope by registered mail to the County Clerk of the county in which such elector resides, and the County Clerk of the county in which such elector resides shall forthwith enclose the same, unopened, in a larger envelope, which shall be securely sealed and endorsed with the name of the proper voting precinct, the name and official title of such Clerk, and the words "this envelope contains an absent voter ballot, and must be opened only on election day and at the polls when the same are opened;" and such Clerk shall safely keep the same in his office until same is delivered or mailed by him to the judges of election of the precinct in which such absent voter resides, as provided by this law.

Section 747. If the envelope containing the vote of an absent voter be received by the Secretary of State on or after five days preceding the day of general election, and on or before the first Monday in December following the general election, such envelope containing the ballot of such absent voter shall by said Secretary of State, unopened, be deposited with the State Treasurer, who shall retain the envelopes containing such ballots until the first Monday in December, succeeding the general election. On the first Monday of December, the State Canvassing Board shall convene at the State Capitol, and shall in public, at the hour of 12 o'clock noon, open the envelopes and packages so received, and proceed to canvass said vote for all persons or measures voted for in the manner provided by law. The State Board of Canvassers shall cause to be transmitted by the Secretary of State to the County Clerks of each

county a complete statement of the votes cast for each person, as shown by the canvass of said vote, and the vote so received by each candidate shall be added to the total vote received by said person, as shown by the County Board of Canvassers or the State Board of Canvassers.

Section 748. If the envelope containing the vote of an absent voter be received by the Secretary of State after the first Monday in December following the general election, and on or before the fourth Monday in December following the general election, such envelope containing the ballot of such absent voter shall by the Secretary of State, unopened, be deposited with the State Treasurer, who shall retain the envelopes containing such ballots until the fourth Monday in December succeeding the general election. On the fourth Monday of December following the general election, the State Canvassing Board shall convene at the State Capitol and shall in public, at the hour of 12 o'clock noon, open the envelope and packages so received, and proceed to canvass said vote for all persons or measures voted for in the manner provided for by law. The State Board of Canvassers shall cause to be transmitted by the Secretary of State to the County Clerks of each county a complete statement of the votes cast for each person, as shown by the canvassing of said vote, and the vote so received by each candidate shall be added to the total vote received by said person as shown by the prior official canvass. At the meeting of the State Canvassing Board, on the first Monday in December following the general election and on the fourth Monday in December following the general election, the State Canvassing Board shall proceed to canvass such statements and returns of the absent voters' ballots herein provided for and shall from such statements and returns, together with the statements and returns theretofore made of such election, make new and separate statements of the votes cast in each county, or any part thereof, as shown by the canvass of such vote, and shall complete their canvass and make the statements provided for in this Act, and they shall not, until the fourth Monday in December following the general election, finally determine the result of the election; but nothing herein shall prevent any County Board of Canvassers or State Board of Canvassers from proceeding as provided by law, except as to such final determination. Such meeting or meetings of the Board of County Canvassers or State Canvassers shall be deemed a continuation of its regular session.

Section 749. The County Board of Canvassers of each county of the State shall convene at the county seat of their respective counties on the last day of December, or as soon as the final returns shall have been received from the Secretary of State, but not later than the Saturday preceding the first Monday in January following the general election, and shall from the returns theretofore canvassed by them, together with such statements and returns as shall have been received from and certified to by the Secretary of State of Montana, make new and separate statements of the votes cast in such county, or any part thereof, and shall complete their canvass and make the final statements provided for by law, and they shall not until such meeting finally determine the result of the election; but nothing herein shall prevent the County Board of Canvassers from proceeding as provided by law for canvassing the returns of such

election, except as to final determination. Such meeting or meetings of the Board of County Canvassers shall be deemed a continuation of its regular session.

Section 750. The County Board of Canvassers and the State Board of Canvassers shall each, in the determination of the number of votes received by any person for any office, add the total number of votes received by such person at the general election and canvassed by said Boards in the manner provided by law, the number of votes received by any such person as canvassed by the State Board of Canvassers, and the total number of votes so received by any person as a candidate for any office of the State of Montana shall be the number of votes declared and determined by the County Board of Canvassers or the State Board of Canvassers, and they shall thereupon declare such person elected as shown by such vote, and shall order issued thereto certificates of election.

Section 751. No statement of returns or any ballot of an absent voter, as provided in this Act, which shall not have been made or canvassed prior to or on the fourth Monday of December succeeding the general election, shall be canvassed or affect the result of such an election; and no return or statement not received by the County or State Boards of Canvassers at their meetings herein provided for shall be thereafter canvassed or affect the result of such election.

Section 752. Persons authorized to administer oaths and before whom an elector may mark his ballot as hereinabove provided shall be: Any commissioned officer of the army or navy of the United States, any person in charge of a section, camp or detachment of any of the auxiliary organizations mentioned in Section 736 of this Code, or any person authorized to administer oaths by the laws of this State or of the United States, or of the country in which the elector may be and marks his ballot.

Section 753. No mere informality in the matter of carrying out or executing the provisions of this Act shall invalidate the election, or authorize the rejection of the returns thereof, and the provisions of this Act shall be liberally construed for the purposes herein expressed and intended. All the provisions of the penal law of the State of Montana relating to crime against the elective franchise shall be deemed to apply to the provisions of this Act.

Section 754. All ballots received by the Secretary of State and canvassed under this Act shall be securely sealed in separate packages and retained by him, subject to the order of any court of competent jurisdiction.

Section 755. The Secretary of State shall cause this Act to be printed in suitable form and a copy thereof to be forwarded with the ballot to each person entitled to vote under the provisions of this Act.

Section 756. Nothing in this Act shall be deemed to repeal or amend any of the provisions of law now existing relating to elections, but this Act shall be construed as supplementary to all such laws and designed to carry into effect the purposes herein expressed, but in case of conflict, or apparent conflict, the provisions of this Act shall, within its scope and purpose, prevail.

## VOTING MACHINES.

Section 757. The Governor, Secretary of State, and State Auditor, and their successors in office are hereby created and constituted the State Board of Voting Machine Commissioners. It shall be the duty of said board to examine all voting or ballot machines in order to determine whether such machines comply with the requirements of this Act, and can safely be used by voters at elections under the provisions of this Act, and no machine or machines shall be provided or used at any election in this State unless the said machine or machines shall have received the approval of a majority of said Board as herein provided. Said Board may employ two qualified mechanics, who shall be qualified electors of the State of Montana, to examine said machines and assist said Board in the discharge of its duties under this Act, the compensation to be paid such qualified mechanics not to exceed the sum of ten dollars each for each day actually employed. Any machine or machines which shall have the approval of the majority of said Board may be provided for in this Act. The report of said Board on each and every kind of voting machine shall be filed with the Secretary of State within thirty days after examining the machine, and the Secretary of State shall, within five days after the filing of any report approving any machine or machines, transmit to the Board of County Commissioners, City Council or other board of officers having charge and control of elections, in each of the counties and cities of this State, a list of the machines so approved. No machine or machines shall be used unless they shall have received the approval of the State Board at least sixty days prior to any election at which such machine or machines are to be used. The compensation of the mechanics and all other expenses connected with the examination of any machine shall be paid, or caused to be paid, by the person or company submitting the machine for examination before the filing of the report thereon. The amount of such expenses shall be certified by the State Auditor and paid to the State Treasurer.

Section 758. No machine or machine system shall be approved by the Commissioners unless it be so constructed as to afford every elector a reasonable opportunity to vote for any person for any office, or for or against any proposition for whom, or for or against which he is by law entitled to vote, and enable him to do this in secrecy; and it must be so constructed as to preclude an elector from voting for any candidate for the same office or upon any question more than once, and from voting for any person for any office for whom he is not by law entitled to vote. The machine or machine system must admit of his voting a split ticket as he may desire. It must also be so constructed as to register or record each and every vote cast. For Presidential electors one device may be provided for voting for all candidates of one party at one time by the use of such device, opposite or adjacent to which shall be a ballot on the machine containing the names of all candidates for all Presidential electors of that party, and a vote registered or recorded by the use of such device shall be counted for each of such candidates on said ballot. The machine must be constructed so that it cannot be tampered with or manipulated for any fraudulent purpose; and the machine must be so locked, arranged or constructed that during the progress of the voting no person can see or know the number of votes registered or recorded for any candidate.

Section 759. The Boards of County Commissioners of counties of the first class shall, and the Boards of County Commissioners of other counties and City Councils of all cities and towns, may, at their option, adopt and purchase, for use in the various precincts, any voting machine approved in the manner above set forth in this Act, by the Voting Machine Commission, and none other. If it shall be impracticable to supply each and every election district with a voting machine or voting machines at any election following the adoption of such machines in a city, village, or town, as many may be supplied as it is practicable to procure, and the same shall be used in such precinct of the municipality as the proper officers may order. The proper officers of any city, village, or town may, not later than the tenth day of September, in any year in which a general election is held, unite two or more precincts into one for the purpose of using therein at such election a voting machine, and the notice of such uniting shall be given in the manner prescribed by law for the change of election districts.

Section 760. Payment for voting machines purchased may be provided by the issuance of interest bearing bonds, certificates of indebtedness, or other obligations, which will be a charge upon such county, city, or town. Such bonds, certificates, or other obligations may be made payable at such time or times, not exceeding ten years from the date of issue, as may be determined, but shall not be issued or sold at less than par.

Section 761. The room in which the election is held shall have a railing separating that part of the room to be occupied by the election officers from that part of the room occupied by the voting machine. The exterior of the voting machine and every part of the polling place shall be in plain view of the judges. The machine shall be so placed that no person on the opposite side of the railing can see or determine how the voter casts his vote, and that no person can see or determine from the outside of the room. After the opening of the polls, the judges shall not allow any person to pass within the railing to that part of the room where the machine is situated, except for the purpose of voting and except as provided in the next succeeding section of this Act; and they shall not permit more than one voter at a time to be in such part of the room. They shall not themselves remain or permit any person to remain in any position that would permit him or them to see or ascertain how the voter votes or how he has voted. No voter shall remain within the voting machine booth or compartment longer than one minute, and if he should refuse to leave it after that lapse of time he shall at once be removed by the judges. The election board of each election precinct in which a voting machine is used shall consist of three judges of election. Where more than one machine is to be used in an election precinct, one additional judge shall be appointed for each additional machine. Before each election at which voting machines are to be used, the custodian shall instruct all judges of election that are to serve thereat in the use of the machine and their duties in connection therewith; and he shall give to each judge that has received such instruction, and is fully qualified to conduct the election with the machine, a certificate to that effect. For the purpose of giving such instruction, the custodian shall call such meeting or meetings of the judges of election as shall be necessary. Each judge of election shall attend such meeting or meetings and receive such

instructions as shall be necessary for the proper conduct of the election with the machine; and, as compensation for the time spent in receiving such instruction, each judge that shall qualify for and serve in the election shall receive the sum of one dollar, to be paid to him at the same time and in the same manner as compensation is paid to him for his services on election day. No such judge of election shall serve in any election at which a voting machine is used, unless he shall have received such instruction and is fully qualified to perform his duties in connection with the machine, and has received a certificate to that effect from the custodian of the machine; provided, however, that this shall not prevent the appointment of a judge of election to fill a vacancy in an emergency.

Section 762. If any voter shall, in the presence of the judges of election, declare that he is unable to read or write the English language, or that by reason of his physical disability or total blindness he is unable to register or record his vote upon the machine, he shall be assisted as provided by Section..... of the statutes of.....

..... Any person who shall deceive any elector in registering or recording his vote under this section, or who shall register or record his vote in any other way than as requested by such person, or who shall give information to any person as to what ticket or what person or persons such person voted, shall be punished as provided in Section 10753 of the Penal Code.

Section 763. Not more than ten (10) or less than three (3) days before each election at which voting machines are to be used, the board, or officials, charged with the duty of providing ballots, shall publish in newspapers representing at least two (2) political parties, a diagram of reduced size showing the fact of the voting machine, after the official ballot labels are arranged thereon, together with illustrated instructions how to vote, and a statement of the locations of such voting machines as shall be on public exhibition; a voting machine shall at all time be on exhibition for public demonstration in the office of the county clerk and recorder in the counties where said voting machines are used, and it shall be the duty of the said county clerk and recorder to demonstrate and explain the working and operation of said voting machine to any inquiring voter; or in lieu of such publication, said board or officials may send by mail or otherwise at least three (3) days before the election, a printed copy of said reduced diagram to each registered voter. Not later than forty (40) days before each election at which voting machines are to be used, the Secretary of State shall prepare samples of the printed matter and supplies named in this section, and shall furnish one of each thereof to the board or officials having charge of election in each county, city, or village in which the machines are to be used, such samples to meet the requirements of the election to be held, and to suit the construction of the machine to be used. The board or officials charged with the duty of providing ballots, shall provide for each voting machine for each election the following printed matter and supplies; suitable printed or written directions to the custodian for testing and preparing the voting machines for the election; one certificate on which the custodian can certify that he has properly tested and prepared the voting machine for the election; one certificate on which some person other than the custodian preparing the machine, can certify that the voting machine has been examined and

found to have been properly prepared for the election; one certificate on which the party representatives can certify that they have witnessed the testing and preparation of the machines; one certificate on which the deliverer of the machine can certify that he has delivered the machines to the polling places in good order; one card stating the penalty for tampering with or injuring a voting machine; two seals for sealing the voting machine; one envelope in which the keys to the voting machine can be sealed and delivered to the election officers, said envelope to have printed or written thereon the designation and location of the election district in which the machine is to be used, the number of machine, the number shown on the protective counter thereof after the machine has been prepared for the election and the number or other designation on such seal as the machine is sealed with; said envelope to have attached to it a detachable receipt for the delivery of the keys of the voting machine to the judge of election; one envelope in which keys to the voting machine can be returned by the election officers after the election; one card stating the name and telephone address of the custodian on the day of the election; two statements of canvass on which the election officers can report the canvass of the votes as shown on the voting machine, together with other necessary information relating to the election, said statements of canvass to take the place of all tally papers, statements, and returns as provided heretofore; three (3) complete sets of ballot labels; two diagrams of the face of the machine with the ballot labels thereon, each diagram to have printed above it the proper instructions to voters for voting on the machine; six (6) suitable printed instructions to judges of election; six (6) notices to judges of election to attend the instruction meeting; six (6) certificates that the judges of election have attended the instruction meeting, have received the necessary instruction, and are qualified to conduct the election with the machine. The ballot labels shall be printed in black ink on clear white material of such size and arrangement as shall suit the construction of the machine; provided, however, that the ballot labels for the questions may contain a condensed statement of each question to be voted on, followed by the words "Yes" and "No"; and provided further, that the titles of the officers thereon shall be printed in type as large as the space for each office will reasonably permit, and wherever more than one candidate will be voted for for an office, there shall be printed below the office title thereof the words "vote for any two," or such number as the voter is lawfully entitled to vote for for such office. When any person is nominated for an office by more than one political party, his name shall be placed upon the ticket under the designation of the party which first nominated him; or, if nominated by more than one party at the same time, he shall, within the time fixed by law for filing certificates of nomination, file with the officer with whom his certificate of nomination is required to be filed, a written statement indicating the party designation under which he desires his name to appear upon the ballot, and it shall be so printed. If he shall refuse or neglect to so file such a statement, the officer with whom the certificate of nomination is required to be filed shall place his name under the designation of either of the parties nominating him, but under no other designation whatsoever. If the election be one at which all the candidates for the office of presidential electors are to be voted for with one device, the county com-

missioners shall furnish for each machine twenty-five (25) ballots for each political party, each ballot containing the names of the candidates for the office of presidential electors of such party and a suitable space for writing in names, so that the voter can vote thereon for part of the candidates for the office of presidential electors of one party and part of the candidates therefor of one or more other parties or for persons for that office not nominated by any party. For election precincts in which voting machines are to be used, no books or blanks for making poll lists shall be provided, but in lieu thereof, the registry lists shall contain a column in which can be entered the number of each voter's ballot as indicated by the number registered on the public counter as he emerges from the voting machine."

Section 764. The city or county clerk of each city or county in which a voting machine is to be used shall cause the proper ballots to be put upon each machine corresponding with the sample ballots herein provided for, and the machines in every way put in order, set and adjusted ready for use in voting when delivered at the precinct, and for the purpose of so labeling the machines, putting in order, setting and adjusting the same, they may employ one or more competent persons, and they shall cause the machine so labeled, in order and set and adjusted, to be delivered at the voting precinct, together with all necessary furniture and appliances that go with the same in the room where the election is to be held in the precinct, in time for the opening of the polls on election day; providing, however, that a shield of tin painted black made to conform with the shape of the keys or levers on said voting machine, shall be placed over the keps or levers not in use on the face of the ballot of the voting machine; said shields to be plainly marked with the words "not in use;" and provided, that a space of at least one row of keys or levers be left vacant and marked "not in use" between the rows assigned to the two parties obtaining the largest number of votes cast at the previous general election; and provided, also that the general ballot used on the voting machine shall conform in the location of the various parties and the location of the various names of the candidates, with the paper ballots used in the precincts where voting machines are not in use. Thus the party assigned to the first vertical column on the paper ballot be given the first vertical column or the top horizontal row on the voting machine; the party assigned to the second vertical column on the paper ballot be given the second vertical column, or the second horizontal row to be voted on the voting machine. The judges shall compare the ballots on the machine with the sample ballot, see that they are correct, examine and see that all the counters, if any, in the machine are set at zero, and that the machine is otherwise in perfect order, and they shall not thereafter permit the machine to be operated or moved except by electors in voting, and they shall also see that all necessary arrangements and adjustments are made for voting irregular ballots on the machine, if such machine be so designed.

Section 765. In case a voting machine be adopted which provides for the registry or recording of votes for candidates whose names are not on the official ballot, such ballot shall be denominated irregular ballots. A person whose name appears on a ballot, or in a machine or machine system, shall not be voted for the same office or on or in any regular device for casting an irregular ticket, and any such vote shall

not be counted, except for the office of Presidential electors, and an elector may vote in or on such irregular device for one or more persons nominated by one party with one or more persons nominated by any or all other parties, or for one or more persons nominated by one or more parties with one or more persons not in nomination, or he may vote in such irregular device a Presidential electoral ticket composed entirely of names of persons not in nomination.

Section 766. As soon as the polls of the election are closed, the judges shall immediately lock the machine, or remove the recording device so as to provide against voting, and open the registering or recording compartments in the presence of any person desiring to attend the same, and shall proceed to ascertain the number of votes cast for each person voted for at the election, and to canvass, record, announce, and return the same as provided by law.

Section 767. The judges as soon as the count is completed and fully ascertained, shall place the machine for one hour in such a position that the registering or recording compartments will be in full view of the public and any person desiring to view the number of votes cast for each person voted for at the election, must be permitted to do so. Immediately after the above said one hour shall have expired, the judges shall seal, close, lock the machine or remove the record so as to provide against voting or being tampered with, and in case of a machine so sealed or locked, it shall so remain for a period of at least thirty (30) days, unless opened by order of a court of competent jurisdiction. When irregular ballots have been voted, the judges shall return them in a properly sealed package endorsed "irregular ballots," and indicating the precinct and county and file such package with the city or county clerk. It shall be preserved for six (6) months after such election and may be opened and its contents examined only upon an order of a court of competent jurisdiction; at the end of such six (6) months, unless ordered otherwise by the court, such package and its contents shall be destroyed by the city or county clerk. All tally sheets taken from such machine, if any, shall be returned in the same manner. The officers heretofore charged with the duty of furnishing tally sheets and returns blanks shall furnish suitable returns blanks and certificates to the officers of election. Such return sheets shall have each candidate's name designated by the same reference character that said candidate's name bears on the ballot labels and counters, and shall make provision for writing in of the vote for such candidate in figures and shall also provide for the writing in of the vote in words. Such return sheet shall also provide for the return of the vote on questions. It shall also have a blank thereon, on which can be marked the precinct, ward, etc., of which said return sheet bears the returns and the number and make of the machine used. Said return sheet shall also have a certificate thereon, to be executed before the polls open by the judges of election, stating that all counters except the protective counter, if any, and except as otherwise noted thereon, stood at "000" at the beginning of the election, and that all of said counters had been carefully examined before the beginning of the election; that the ballot labels were correctly placed on the machine and correspond to the sample ballot, and such other statements as the particular machine may require; and shall provide for the signature of the election officers. Said return sheet shall also have thereon a second certificate stating the manner of closing the

polls, the manner of verifying the returns, that the foregoing returns are correct, giving the indication of the public counter, and poll list, and protective counter, if any, at the close of the election. Such certificate shall properly specify the procedure of canvassing the vote and locking the machine, etc., for the particular type of machine used, and such certificate shall be such that the election officers can properly subscribe to it as having been followed and shall have provisions for the signature of the election officers. The election officers shall conform their procedure to that specified in the certificate to which they must certify. The certificate and attest of the election officers shall appear on each return sheet.

Section 768. All laws of this State applicable to elections where voting is done in another manner than by machine, and all penalties prescribed for violation of such laws, shall apply to elections and precincts where voting machines are used, in so far as they are not in conflict with the provisions of this Chapter.

Section 769. Any public officer or any election officer upon whom any duty is imposed by this Act, who shall wilfully neglect or omit to perform any such duties, or do any act prohibited herein for which punishment is not otherwise provided herein, shall, upon conviction be imprisoned in the State prison for not less than one year or more than three years, or be fined in any sum not exceeding one thousand dollars, or may be punished by both such imprisonment and fine.

Section 770. Any person not being an election officer who, during any election or before any election, after a voting machine has had placed upon it the ballots for such election, shall tamper with such machine, disarrange, deface, injure, or impair the same in any manner, or mutilate, injure or destroy any ballot placed thereon or to be placed thereon, or any other appliance used in connection with such machine, shall be imprisoned in the State prison for a period of not more than ten years, or be fined not more than one thousand dollars, or be punished by both such fine and imprisonment.

Section 771. Whoever, being a judge of election, with intent to permit or cause any voting machine to fail to correctly register or record any vote cast thereon, tampers with or disarranges such machine in any way, or any part or appliance thereof, or who causes or consents to said machine being used for voting at any election with knowledge of the fact that the same is not in order, or not perfectly set and adjusted, so that it will correctly register or record all votes cast thereon, or who, for the purpose of defrauding or deceiving any voter, or of causing it to be doubtful for what ticket or candidate or candidates or proposition any vote is cast, or of causing it to appear upon said machine that votes cast for one ticket, candidate, or proposition were cast for another ticket, candidate, or proposition, removes, changes, or mutilates any ballot on said machine, or any part thereof, or does any other like thing, shall be imprisoned in the State prison not more than ten years, or fined not exceeding one thousand dollars, or punished by both such fine and imprisonment.

Section 772. Any judge or clerk of an election who shall purposely cause the vote registered or recorded on or in such machine to be incorrectly taken down as to any candidate or proposition voted on, or who shall knowingly cause to be made or signed any false statement, certificate or return of any kind of such vote, or who shall

knowingly consent to such things, or any of them, being done, shall be imprisoned in the State prison not more than ten years, or fined not more than one thousand dollars, or punished by both fine and imprisonment.

Section 773. The proper officers authorized by this Act to adopt voting machines, may provide for the experimental use of an election in one or more precincts, of a machine approved by the Montana Voting Machine Commission without a formal adoption or purchase thereof and its use at such election shall be as valid for all purposes as if formally adopted. If from any cause a machine becomes unworkable, or unfit for use, voting shall proceed as in cases where machines are not used, and the county clerk must furnish each voting place with the supply of ballots and other supplies required by the election laws to be used in the case of emergency herein provided for, and in such case only.

### CANVASSING AND RETURNING THE VOTE.

Section 774. As soon as the polls are closed, the judges must immediately proceed to canvass the votes given at such election. The canvass must be public in the presence of bystanders, and must be continued without adjournment until completed and the result thereof is publicly declared.

Section 775. The canvass must commence by a comparison of the poll lists from the commencement, and the correction of any mistakes that may be found therein, until they are found to agree. The judges must then take out of the box the ballots unopened, except to ascertain whether each ballot is single, and count the same to determine whether the number of ballots corresponds with the number of names on the poll lists. If two or more ballots are found so folded together as to present the appearance of a single ballot, they must be laid aside until the count of the ballots is completed, and if, on comparing the count with the poll lists and further considering the appearance of such ballots, a majority of the judges are of the opinion that the ballots thus folded together were voted by one elector, they must be rejected; otherwise they must be counted.

Section 776. If the ballots are found to exceed in number the whole number of names on the poll list, they must be placed in the box (after being purged in the manner above stated), and one of the judges must publicly and without looking into the box, draw therefrom singly and destroy unopened so many ballots as are equal to such excess. And the judges must make a record on the poll list of the number of ballots so destroyed.

Section 777. In the canvass of votes, any ballot which is not endorsed as provided in this title, by the official stamp is void and must not be counted, and any ballot or parts of a ballot from which it is impossible to determine the elector's choice is void and must not be counted; if part of a ballot is sufficiently plain to gather therefrom the elector's intention, it is the duty of the judges of election to count such part.

Section 778. The ballots and poll lists agreeing or being made to agree, the judges must then proceed to count and ascertain the number of votes cast for each person voted for. In making such count the ballots must be opened singly by one of the judges, and the contents thereof, while exposed to the view of the other judges,

must be distinctly read aloud by the judge who opens the ballot. As the ballots are read, each clerk must write at full length on a sheet to be known as a tally sheet, the name of every person voted for and of the office for which he received votes, and keep by tallies on such sheet the number of votes for each person. The tally sheets must then be compared and their correctness ascertained, and the clerks must, under the supervision of the judges, immediately thereafter set down, at length and in their proper places in the poll books, the names of all persons voted for, the offices for which they respectively received votes, and the total number of votes received by each person, as shown by the tally sheets. No ballot or vote rejected by the judges must be included in the count provided for in this section.

Section 779. The ballots, as soon as read or rejected for illegality, must be strung upon a string by one of the judges, and must not thereafter be examined by any person; must, as soon as all legal ballots are counted, be carefully sealed in a strong envelope, each member of the judges writing his name across the seal.

Section 780. Any ballot rejected for illegality must be marked by the judges, by writing across the face thereof "Rejected on the ground of .....," filling the blank with a brief statement of the reasons for the rejection, which statement must be dated and signed by a majority of the judges.

Section 781. As soon as all the votes are counted and the ballots sealed up, the poll books must be signed and certified to by the judges and clerks of election substantially as in the form in Section 600 of this Code.

Section 782. The judges must, before they adjourn, inclose in a strong envelope, securely sealed up and directed to the County Clerk, the check lists, all certificates of registration received by them, one of the lists of the persons challenged, one of the poll books, one of the tally sheets, and the official oaths taken by the judges and clerks of election; and must inclose in a separate package or envelope, securely sealed up and directed to the County Clerk, all detached stubs from ballots voted, and all unused ballots with the numbered stubs attached; and must also inclose in a separate package or envelope, securely sealed up and directed to the County Clerk, all ballots voted, including all voted ballots which, for any reason, were not counted or allowed, and indorse on the outside thereof "Ballots voted." Each of the judges must write his name across the seal of each of said envelopes or packages.

Section 783. The judges must select one of their number to retain, open to the inspection of all electors, for at least six months, the other list of persons challenged, the other tally sheet and poll book. The judge so selected must also retain the ballot box.

Section 784. The sealed envelope containing the check lists, certificates of registration, poll books, tally sheets, oaths of election officers; also the package or envelope containing the detached stubs and unused ballots, must, before the judges adjourn, be delivered to one of their number, to be determined by lot, unless otherwise agreed upon.

Section 785. The judges to whom such packages are delivered must, within twenty-four hours, deliver them, without their having

been opened to the County Clerk, or convey the same unopened to the postoffice nearest the house in which the election for such precinct was held and register and mail the same, duly directed to the said Clerk.

Section 786. Upon receipt of the packages by the County Clerk, he must file the one containing the ballots voted and the one containing the detached stubs and unused ballots, and must keep them unopened and unaltered for twelve months, after which time, if there is no contest commenced in some tribunal having jurisdiction about such election, he must burn such packages, or envelopes, without opening or examining their contents.

Section 787. If within twelve months, there is such a contest commenced, he must keep the packages or envelopes unopened and unaltered until it is finally determined when he must, as provided in the preceding section, destroy them, unless the same are, by virtue of an order of the tribunal in which the contest is pending, brought and opened before it, to the end that evidence may be had of their contents, in which event the packages or envelopes and their contents are in the custody of such tribunal.

Section 788. The envelopes containing the check lists, certificates of registration, poll book, tally sheets, and oaths of election officers must be filed by the County Clerk and be kept by him, unopened and unaltered, until the Board of County Commissioners meets for the purpose of canvassing the returns, when he must produce them before such Board, where the same shall be opened.

Section 789. As soon as the returns are canvassed, the Clerk must file in his office the poll book, lists, and the papers produced before the Board from the packages mentioned in the next preceding section.

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## CANVASS OF RETURNS—RESULT—CERTIFICATES OF ELECTION.

Section 790. The Board of County Commissioners of each county is ex-officio a Board of County Canvassers for the county, and must meet as a Board of County Canvassers at the usual place of meeting of the County Commissioners within ten days after each election at 12 o'clock noon, to canvass the returns.

Section 791. If, at the time and place appointed for such meeting, one or more of the County Commissioners should not attend, the place of the absentees must be supplied by one or more of the following county officers, whose duty it is to act in the order named, to-wit: The Treasurer, the Assessor, the Sheriff, so that the Board of County Canvassers shall always consist of three acting members. The Clerk of the Board of County Commissioners is the Clerk of the Board of County Canvassers.

Section 792. If at the time of meeting the returns from each precinct in the county in which polls were opened have been received, the Board of County Canvassers must then and there proceed to canvass the returns; but if all the returns have not been received, the canvass must be postponed from day to day until all of the returns are received, or until seven postponements have been had. If the returns from any election precinct have not been received by the County Clerk within seven days after any election, it is his duty forthwith to send a messenger to the judges for the

missing returns, who must procure such returns from the judges, or any of them, and return the same to the County Clerk. Such messenger must be paid out of the county treasury fifteen cents per mile in going and coming. If it appears to the Board, by evidence, that the polls were not opened in any precinct, and no returns have been received therefrom, the Board must certify to the same, and file such certificate with the County Clerk, with the evidence, if any, who must enter the same in the minutes and in the statements mentioned in Section 794.

Section 793. The canvass must be made in public by opening the returns and determining therefrom the vote of such county or precinct for each person voted for, and for and against each proposition voted upon at such election, and declaring the result thereof. In canvassing, no returns must be rejected if it can be ascertained therefrom the number of votes cast for each person. The fact that the returns do not show who administered the oath to the judges or clerks of election, or a failure to fill out all the certificates in the poll books, or to do or perform any other act in making up the returns, that is not essential to determine for whom the votes were cast, is not such an irregularity as to entitle the Board to reject the same, but they must be canvassed as other returns are.

Section 794. The Clerk of the Board must, as soon as the result is declared, enter on the record of such Board a statement of such result, which statement must show:

1. The whole number of votes cast in the county.
2. The names of the persons voted for, and the propositions voted upon.
3. The office to fill which each person was voted for.
4. The number of votes given at each precinct to each of such persons, and for and against each of such propositions.
5. The number of votes given in the county to each of such persons, and for and against each of such propositions.

Section 795. The person receiving at any election the highest number of votes for any office to be filled at such election is elected thereto.

Section 796. The Board must declare elected the person having the highest number of votes given for each office to be filled by the votes of a single county or a subdivision thereof, and in the event of two or more persons receiving an equal and sufficient number of votes to elect to the office of State Senator, or member of the House of Representatives, it shall be the duty of the Board, under the direction of and in the presence of the District Court, or Judge thereof to recount the ballots cast for such persons, and the Board shall declare elected the person or persons shown by the recount to have the highest number of votes. If such recount shall show that two or more persons receive an equal and sufficient number of votes to elect to the same office, then, and in that event, the Board shall certify such facts to the Governor.

Section 797. The Clerk of the Board of County Commissioners must immediately make out and deliver to such person (except to the person elected District Judge) a certificate of election signed by him and authenticated with the seal of the Board of County Commissioners.

Section 798. When there are members of the House of Representatives voted for by the electors of a district composed of two or more counties, each of the Clerks of the counties composing such district, immediately after making out the statement specified in Section 794, must make a certified abstract of so much thereof as relates to the election of such officers.

Section 799. The Clerk must seal up such abstract, indorse it "Election Returns," and without delay transmit the same by mail to the Clerk of the Board of Commissioners of the county which stands first in alphabetical arrangement in the list of counties composing such district.

Section 800. The Clerk to whom the returns of a district are made, must on the twentieth day after such election, or sooner, if the returns from all the counties in the district have been received, open in public such returns, and from them and the statement of the vote for such officers in his own county:

1. Make a statement of the vote of the district for such officers, and file the same, together with the returns, in his office.
2. Transmit a certified copy of such statement to the Secretary of State.
3. Make out and deliver or transmit by mail to the person elected a certificate of election (unless it is by law otherwise provided.)

Section 801. When there has been a general or special election for officers voted for by the electors of the State at large or for judicial officers (except Justices of the Peace), each Clerk of the Board of County Canvassers, so soon as the statement of the voter of his county is made out and entered upon the records of the Board of County Commissioners, must make a certified abstract of so much thereof as relates to the votes given for persons for said offices to be filled at such election.

Section 802. The Clerk must seal up such abstract, endorse it "Election Returns," and without delay transmit it by mail, registered, to the Secretary of State.

Section 803. On the first Monday of December after the day of election, at 12 o'clock noon, the State Auditor, State Treasurer, and Attorney General, who constitute a Board of State Canvassers, must meet in the office of the Secretary of State and compute and determine the vote, and the Secretary of State, who is secretary of said Board, must make out and file in his office a statement thereof and transmit a copy of such statement to the Governor.

Section 804. If the returns from all the counties have not been received on the fifth day before the day designated for the meeting of the Board of State Canvassers, the Secretary of State must forthwith send a messenger to the Clerk of the Board of County Canvassers of the delinquent county, and such Clerk must furnish the messenger with a certified copy of the statement mentioned in Section 794. The person appointed is entitled to receive as compensation Five Dollars per day for the time necessarily consumed in such service, and the traveling expenses necessarily incurred. His account therefor, certified by the Secretary of State, after being allowed by the Board of Examiners, must be paid out of the general fund of the State treasury.

Section 805. Upon receipt of such copy mentioned in Section 803, the Governor must issue commissions to the persons who from it appear to have received the highest number of votes for offices to be filled at such election. In case a Governor has been elected to succeed himself, the Secretary of State must issue the commission.

Section 806. No declaration of the result, commission, or certificate must be withheld on account of any defect or informality in the return of any election, if it can with reasonable certainty be ascertained from such return what office is intended and who is elected thereto.

Section 807. It is the duty of the Secretary of State to cause to be published, in pamphlet form, a sufficient number of copies of this title, and such other provisions of law as bear upon the subject of election, and to transmit the proper number to each County Clerk, whose duty it is to furnish each election officer in his county with one of such copies.

Section 808. The penalties for the violation of election laws are prescribed in Section 10747 to 10820 of the Penal Code.

Section 809. In case of a failure, by reason of a tie vote or otherwise, to elect a Representative in Congress, the Secretary of State must transmit to the Governor a certified statement showing the vote cast for such persons voted for, and in case of a failure to elect, by reason of a tie vote, or otherwise, the Governor must order a special election.

Section 810. In case any two or more persons have an equal and highest number of votes for either Governor, Lieutenant Governor, Secretary of State, Attorney General, State Auditor, State Treasurer, Clerk of the Supreme Court, Superintendent of Public Instruction, or any other State executive officer, the Legislative Assembly, at its next regular session, must forthwith, by joint ballot of the two houses, elect one of such persons to fill such office; and in case of a tie vote for Clerk of the District Court, County Attorney, or for any county officer except County Commissioner, and for any township officer, the Board of County Commissioners must appoint some eligible person, as in case of other vacancies in such offices; and in case of a tie vote for County Commissioner, the District Judge of the county must appoint an eligible person to fill the office, as in other cases of vacancy.

Section 811. In case of a tie vote for State officers, as specified in the preceding Section, it is the duty of the Secretary of State to transmit to the Legislative Assembly, at its next regular session, a certified copy of the statement showing the vote cast for the two or more persons having an equal and the highest number of votes for any State office.

Section 812. In case any two or more persons have an equal and highest number of votes for Justices of the Supreme Court, or Judge of the District Court, the Secretary of State must transmit to the Governor a certified statement showing the vote cast for such person and thereupon the Governor must appoint an eligible person to hold office as in case of other vacancies in such offices.

## PRESIDENTIAL ELECTORS.

Section 813. At the general election in November preceding the time fixed by the law of the United States for the choice of President and Vice President of the United States, there must be elected as many Electors of President and Vice President as this State is entitled to appoint.

Section 814. The votes for Electors of President and Vice President must be canvassed, certified to and returned in the same manner as the votes for State officers.

Section 815. The Governor must transmit to each of the Electors a certificate of election, and on or before the day of their meeting deliver to each of the Electors a list of the names of Electors, and must do all other things required by him in the premises by any Act of Congress in force at the time.

Section 816. The Electors chosen must assemble at the seat of government on the second Monday in January next after their election, at 2 o'clock in the afternoon.

Section 817. In case of the death or absence of any Elector chosen, or in case the number of Electors from any cause be deficient, the Electors then present must elect, from the citizens of the State, so many persons as will supply such deficiency.

Section 818. The electors when convened must vote by ballot for one person for President and one for Vice President of the United States, one of whom at least is not an inhabitant of this State.

Section 819. They must name in their ballots the persons voted for as President, and in distinct ballots the persons voted for as Vice President.

Section 820. They must make distinct lists of all persons voted for as President and of all persons voted for as Vice President, and of the number of votes given for each.

Section 821. They must certify, seal up, and transmit such lists in the manner prescribed by the constitution and laws of the United States.

Section 822. Electors receive the same pay and mileage as is allowed to members of the Legislative Assembly.

Section 823. Their accounts therefor, certified by the Secretary of State, must be audited by the State Auditor, who must draw his warrants for the same on the Treasurer, payable out of the general fund.

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## SENATORS AND REPRESENTATIVES IN CONGRESS.

Section 824. The election of Senators in Congress of the United States for full terms must be held on the first Tuesday after the first Monday in November next preceding the commencement of the term to be filled; and the elections of Senators in Congress of the United States to fill vacancies therein must be held at the time of the next succeeding general State election following the occurrence of such vacancy; if any election therefor be invalid or not held at such time, then the same shall be held at the second succeeding general State election. Nominations of candidates and elections to the office shall be made in the same manner as is provided by law in case of Governor.

Section 825. When a vacancy happens in the office of one or more Senators from the State of Montana in the Congress of the United States, the Governor of this State shall issue, under the seal of the State, a writ or writs of election, to be held at the next succeeding general State election, to fill such vacancy or vacancies by vote of the electors of the State; provided, however, that the Governor shall have power to make temporary appointments to fill such vacancy or vacancies until the electors shall have filled them.

Section 826. At the general election to be held in the year eighteen hundred and ninety-two, and at the general election every two years thereafter, there must be elected for each Congressional district one Representative to the Congress of the United States.

(Note—Montana is now entitled to two Representatives in Congress.)

Section 827. The vote for Representative in Congress must be canvassed, certified to, and transmitted in the same manner as the vote for State officers.

Section 828. The Governor must, upon the receipt of the statement mentioned in Section 803 of this Code, transmit to the person elected a certificate of his election, sealed with the great seal and attested by the Secretary of State.

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## JUDICIAL OFFICERS.

### Justices of the Supreme Court.

#### Constitution Provisions—Article VIII.

Section 6. The Justices of the Supreme Court shall be elected by electors of the State at large, as hereinafter provided.

Section 7. The term of office of the Justices of the Supreme Court, except as in this constitution otherwise provided, shall be six years.

Section 8. There shall be elected at the first general election, provided for by this constitution, one Chief Justice and two Associate Justices of the Supreme Court. At said first election, the Chief Justice shall be elected to hold his office until the general election in the year one thousand eight hundred ninety-two (1892), and one of the Associate Justices to hold his office until the general election in the year one thousand eight hundred ninety-four (1894), and the other Associate Justice to hold his office until the general election in the year one thousand eight hundred ninety-six (1896), and each shall hold until his successor is elected and qualified. The terms of office of said Justices, and which one shall be Chief Justice, shall at the first and all subsequent elections be designated by ballot. After said first election one Chief Justice or one Associate Justice shall be elected at the general election every two years, commencing in the year one thousand eight hundred ninety-two (1892), and if the Legislative Assembly shall increase the number of Justices to five, the first terms of office of such additional Justices shall be fixed by law in such manner that at least one of the five Justices shall be elected every two years.

Section 10. No person shall be eligible to the office of Justice of the Supreme Court, unless he shall have been admitted to practice

law in the Supreme Court of the Territory or State of Montana, be at least thirty years of age, and a citizen of the United States, nor unless he shall have resided in said Territory or State at least two years next preceding his election.

Section 8790. On and after September 1st, 1919, the Supreme Court shall consist of a Chief Justice and four Associate Justices, who shall be elected by the qualified electors of the State at large, at the general State elections next preceding the expiration of the terms of office of their predecessors, respectively, and shall hold their offices for the term of six years from and after the first Monday of January next succeeding their election.

2. The first term of office of one of the additional Justices of the Supreme Court hereby provided for shall extend from the first day of September, 1919, to the first Monday of January, 1921; and John Hurley of Valley county, Montana, is hereby named as said Justice of the Supreme Court and he shall hold said office for said term.

3. The first term of office of the other said additional Justice of the Supreme Court hereby provided for shall extend from the first day of September, 1919, to the first Monday of January, 1923; and George Y. Patton of Gallatin county, Montana, is hereby named as said additional Justice of the Supreme Court, and he shall hold said office for said term.

Section 8797. The years during which a Justice of the Supreme Court is to hold office are to be computed respectively from and including the first Monday of January of any one year to and excluding the first Monday of January of the next succeeding year.

Section 8798. If a vacancy occurs in the office of a Justice of the Supreme Court, the Governor must appoint an eligible person to hold the office until the election and qualification of a Justice to fill the vacancy, which election must take place at the next succeeding general election; and the Justice so elected holds the office for the remainder of the unexpired term of his predecessor.

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## JUDGES OF THE DISTRICT COURTS.

### Constitutional Provisions—Article VIII.

Section 16. No person shall be eligible to the office of Judge of the District Court unless he be at least twenty-five years of age and a citizen of the United States, and shall have been admitted to practice law in the Supreme Court of the Territory or State of Montana, nor unless he shall have resided in this State or Territory at least one year next preceding his election. He need not be a resident of the district for which he is elected at the time of his election, but after his election he shall reside in the district for which he is elected during his term of office.

Section 8813. In each judicial district there must be a Judge of the District Court, who must be elected by the qualified voters of the district, and whose term of office is four years.

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Section 8818. The term of office of Judges of the District Court begins on the first Monday of January next succeeding their election.

Section 8819. The years during which a Judge of a District Court is to hold office are to be computed, respectively, from and including

the first Monday of January of any one year to and excluding the first Monday of January of the next succeeding year.

Section 8820. If a vacancy occurs in the office of a Judge of a District Court, the Governor must appoint an eligible person to hold the office until the election and qualification of a Judge to fill the vacancy, which election must take place at the next succeeding general election, and the Judge so elected holds office for the remainder of the unexpired term.

## JUSTICES OF THE PEACE.

### Constitutional Provision—Article VIII.

Section 20. There shall be elected in each organized township of each county by the electors of such township at least two Justices of the Peace, who shall hold their offices, except as otherwise provided in this constitution, for the term of two years.

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Section 8833. There must be at least two Justices' Courts in each of the organized townships of the State, for which two Justices of the Peace must be elected by the qualified electors of the township at the general State election next preceding the expiration of the term of office of his predecessor.

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Section 8837. The term of office of Justices of the Peace is two years from the first Monday in January next succeeding their election.

Section 8838. If a vacancy occurs in the office of a Justice of the Peace, the County Commissioners of the county must appoint an eligible person to hold the office for the remainder of the unexpired term.

## GOVERNMENT OF COUNTIES.

### Constitutional Provisions—Article XVI.

Section 4. In each county there shall be elected three County Commissioners whose term of office shall be for six years; provided, that the term of office of those elected on November 6, 1900, shall expire on the first Monday in January, 1907; provided, further, that at the general election to be held in November, 1902, (in counties where Commissioners are to be elected) three Commissioners are to be elected whose terms shall expire on the first Monday in January, 1907; provided, further, that at the general election to be held in November, 1900, one Commissioner shall be elected for a term of two years, one Commissioner shall be elected for a term of four years, and one Commissioner shall be elected for a term of six years, whose term of office shall commence on the said first Monday in January, 1907; and, provided, further, that at each general election thereafter, commencing with the general election to be held in November, 1908, one Commissioner shall be elected for a term of six years. A vacancy in the Board of County commissioners shall be filled by the Judge of the judicial district in which the vacancy occurs. (Adopted November 4, 1902.)

Section 5. There shall be elected in each county the following officers: One County Clerk, who shall be Clerk of the Board of County Commissioners and ex-officio Recorder; one Sheriff; one

Treasurer, who shall be Collector of Taxes; provided, that no person shall hold the office of County Treasurer for more than two consecutive terms; one County Superintendent of Schools; one County Surveyor; one Assessor; one Coroner; one Public Administrator. Persons elected to the different offices named in this section shall hold their respective offices for the term of two years, and until their successors are elected and qualified. Vacancies in all county, township and precinct offices, except that of County Commissioners, shall be filled by appointment by the Board of County Commissioners, and the appointee shall hold his office until the next general election.

Section 6. The Legislative Assembly may provide for the election or appointment of such other county, township, precinct and municipal officers as public convenience may require, and their terms of office shall be as prescribed by law, not in any case to exceed two years, except as in this constitution otherwise provided.

Section 4723. No person is eligible to a county office who at the time of his election is not of the age of twenty-one years, a citizen of the State, and an elector of the county in which the duties of the office are to be exercised, or for which he is elected.

Section 4724. No person is eligible to a district or township office who is not of the age of twenty-one years, a citizen of the State, and an elector of the district or township in which the duties of the office are to be exercised, or for which he is elected.

Section 4725. The officers of a county are:

A Treasurer;

A County Clerk;

A Clerk of the District Court;

A Sheriff;

A County Auditor, except in the sixth, seventh, and eighth class counties;

A County Attorney;

A Surveyor;

A Coroner;

A Public Administrator;

An Assessor;

A County Superintendent of Common Schools;

A Board of County Commissioners.

Section 4726. The officers of townships are : Two Justices of the Peace, two Constables, and such other inferior and subordinate officers as are provided for elsewhere in this Code, or by the Board of County Commissioners.

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Section 4728. All elective township officers except County Commissioners, must be elected at the general election to be held in the year 1894, and at the general election to be held every second year thereafter, and must take office on the first Monday of January next succeeding their election, except County Treasurer, whose term begins on the first Monday of March next succeeding his election, and hold office for two years.

Section 4729. The election and terms of office of County Commissioners are provided for in the constitution.

Section 4730. The election and terms of office of District Judges and Justices of the Peace are provided for in the Code of Civil Procedure.

## CREATION, ORGANIZATION AND CLASSIFICATION OF NEW COUNTIES.

Section 4390. New counties may from time to time be formed and created in this State from portions of one or more counties, which shall have been created and in existence for a period of more than two years, in the manner set forth and provided in this Act; provided, however, that no new county shall be established which shall reduce any county to an assessed valuation of less than Eight Million Dollars, inclusive of all assessed valuation as shown by the last preceding assessment; nor shall any new county be established which shall reduce the area of any existing county from which territory is taken to form such new county, to less than twelve hundred square miles of surveyed land, exclusive of all forest reserve and Indian Reservations within old counties, nor shall any new county be formed which contains an assessed valuation of property less than Four Million Dollars, inclusive of all assessed valuation as shown by the last preceding assessment of the county or counties from which such new county is to be established, nor shall any new county be formed which contains less than one thousand miles of surveyed land exclusive of all forest reserve land, or Indian Reservations, not open for settlement, nor shall any line thereof pass within fifteen miles of the courthouse situate at the county seat of the county sought to be divided; provided, that such county line may be run within a distance of ten miles of a county seat in cases where the natural contour of the county, by reason of mountain ranges or other topographical conditions, is such as to make it difficult to reach the county seat, and in such cases a petition, signed by at least fifty-eight per cent of the voters in the proposed new county, shall be presented to the Judge of the District Court in which the county affected is located, asking for the appointment of a commission of five disinterested persons, who shall determine if the topographical conditions are such as to warrant the fixing of the county division lines closer than at fifteen miles from the county seat, as such boundaries are legally fixed and determined at the date of the filing of the petition or petitions referred to in Section 4393 of this Code.

Every county which shall be enlarged or created from the territory taken from any other county or counties shall be liable for a pro rata proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken, and shall be entitled to a pro rata proportion of the assets of the county or counties from which such territory is taken, to be determined as hereinafter provided.

Section 4391. For the purposes of this Act the assessed valuation of all property, whether included within the boundaries of a proposed new county, or remaining within the boundaries of any existing county or counties from which territory is taken, shall be fixed and determined on the same basis as is used for the imposition of taxes in the State of Montana, to-wit: By taking that percentage of the true and full value of all taxable property in any county specified by Section 2000 of this Code.

Whenever in this Act the term "assessed valuation" or "valuation based on the last assessment roll" is used, said term shall be construed as meaning taxable valuation determined as herein provided, not the full and true valuation of property.

Section 4392. That no city, town, or village shall become the temporary or permanent county seat of any county organized under the provisions of Sections 4390 to 4407 of this Code, or created by an Act of the Legislative Assembly, unless such city or town shall have been incorporated in the manner provided by law or unless such village shall have been regularly platted and a plat thereof filed in the office of the County Clerk and Recorder, and there be fifty (50) qualified electors residing within the boundaries of such platted village, and the temporary county seat selected upon the organization of such county shall remain as such county seat until the permanent county seat shall be established as provided by law.

Section 4393. Whenever it is desired to divide any county or counties and form a new county out of a portion of the territory of such then existing county or counties, a petition shall be presented to the Board of County Commissioners of the county from which the new county is to be formed in case said proposed new county is to be formed, from but one county, or to the Board of County Commissioners of the county from which the largest area of territory is proposed to be taken for the formation of such new county, in case said new county is to be formed from portions of two or more existing counties; and such Board of County Commissioners shall be empowered and have jurisdiction to do and perform all acts provided for to be done or performed in this Act, for each of the several counties from which any proposed territory is to be taken, and shall direct that a certified copy of all orders and proceedings had before such Board of County Commissioners shall be certified by the County Clerk to the Board of County Commissioners of each of the several counties from which any territory is taken by the proposed new county; and all officers of any such county shall comply with the orders of the Board of County Commissioners, in the same manner as if said order had been duly made by the Board of County Commissioners of each respective county from which territory is proposed to be taken. Such petition shall be signed by at least fifty-eight per cent of the qualified electors of the proposed new county, whose names appear on the official registration books and who are shown thereon to have voted at the last general election preceding the presentation of said petition to the Board of County Commissioners as herein provided; provided, that in cases where the proposed new county is to be formed from portions of two or more counties, separate petition shall be presented from the territory taken from each county; and each of said separate petitions shall be signed by at least fifty-eight per cent of the qualified electors of each of said proposed portions. Such signatures need not all be appended to one paper, but may be signed to several petitions which must be similar in form, and when so signed the several petitions may be fastened together and shall be treated and presented as one petition.

Such petition or petitions shall contain:

1. A particular description of the boundaries of the proposed new county.
2. A statement that no line thereof passes within fifteen miles of the courthouse situate at the county seat of any county proposed to be divided, except as hereinafter in this Act provided.
3. A statement of the assessed valuation of such proposed county as shown by the last preceding assessment, inclusive of all assessed valuation.

4. A statement of the surveyed area in square miles which will remain in the county or counties from which territory is taken to form such new county, after such county is formed, and a statement of the surveyed area in square miles which will be in the new county after formed.

5. The name of the proposed new county.

6. A prayer that such proposed new county be organized into a new county under the provisions of this Act.

There shall be attached and filed with said petition or petitions an affidavit of five qualified electors and taxpayers residing within each county sought to be divided, to the effect that they have read said petition and examined the signatures affixed thereto, and they believe that the statements therein are true, and that it is signed by at least fifty-eight per cent of the qualified electors as herein provided, of the proposed new county, or of the proposed portion thereof, taken from each existing county, where the proposed new county is to be formed from portions of two or more existing counties; that the signatures affixed thereto are genuine; and that each of such persons so signing was a qualified elector of such county therein sought to be divided, at the date of such signing. Such petition or petitions so verified, and the verification thereof, shall be accepted in all proceedings permitted or provided for in this Act, as *prima facie* evidence of the truth of the matters and facts therein set forth. Upon the filing of such petition or petitions and affidavits with the Clerk of the said Board of County Commissioners, said Clerk shall forthwith fix a date to hear the proof of the said petitions and of any opponents thereto, which date must be not later than thirty days after the filing of such petition with the Clerk of said Board. The County Clerk shall also, at the same time, designate a newspaper of general circulation published in the old counties, but not within the proposed new county, and also a newspaper of general circulation published within the boundaries of the proposed new county, if there be such, in which the said County Clerk shall order and cause to be published, at least once a week for two weeks next preceding the date fixed for such hearing, a notice in substantially the following form:

NOTICE.

Notice is hereby given that a petition has been presented to the Board of County Commissioners of.....county (naming the county represented by the Board of County Commissioners with which said petition was filed), praying for the formation of a new county out of portions of the said.....county and.....county (naming the county or counties of which it is proposed to form the new county), and that said petition will be heard by the said Board of County Commissioners at its place of meetings (designating the city or town and the day and hour of the meeting so to be held), and when and where all persons interested may appear and oppose the granting of said petition, and make any objections thereto.

Dated.....at.....Montana.

....., County Clerk.

Said petitioners shall, on or before the date fixed for said hearing, file with the said Board of County Commissioners a bond to be approved by said Board, in an amount of Five Thousand Dollars, payable to the county in which said petition is filed, conditioned that the obligors named in said bond will pay to said county all expenses incurred in the election provided for in this Act, not exceeding the amount specified in said bond, in the event that at the election herein provided for more than forty-two per cent of the votes cast at said

election are "for the new county of ..... (naming the proposed new county," "No."

At the time so fixed for said hearing, the Board of County Commissioners shall proceed to hear the petitioners and any opponents and protestants upon the petition or protests filed on or before the time fixed for the hearing. No petition or protest or petition for the exclusion of territory shall be considered unless the same is filed at least one day before the time fixed for the hearing, and such petition for the exclusion of territory shall contain the names of not less than fifty per cent. of the qualified electors who are resident property taxpayers of any territory to be excluded. All such territory being excluded must be in one block, and contain an area of not less than thirty-six square miles, and be totally within one county, and contiguous thereto, and the Board of County Commissioners may adjourn such hearing from time to time, but not for more than ten days after the time fixed for the hearing, and shall receive the proof to establish or controvert the facts set forth in said petition. No withdrawals of signatures to the original petition for the creation of a proposed county shall be filed or considered which have not been filed with the County Clerk on or before the date fixed for the hearing. No withdrawals of any signature from the petition for the exclusion of territory shall be received or considered which is not filed within five days after the filing of the petition for such exclusion of territory.

The Board of County Commissioners, on the final hearing of such petition or petitions, shall, by a resolution entered on its minutes, determine:

1. The boundaries of the proposed new county, and the boundaries so determined by said Board of County Commissioners shall be the boundaries of such proposed new county, if it be created as herein provided.

2. Whether the said petition contains the genuine signature of at least fifty-eight per cent. of the qualified electors of the proposed new county as herein required, or in cases where separate petitions are presented from portions of two or more existing counties as herein required, whether each petition is signed by at least fifty-eight per cent. of the qualified electors of that portion of each of such existing counties which it is proposed to take into the proposed new county.

3. Whether any line of the proposed new county passes within fifteen miles of the courthouse situate at the county seat of any county proposed to be divided, except as hereinbefore provided.

4. Whether the proposed new county will contain property, according to the last preceding assessment, which will equal in amount at least Four Million Dollars, inclusive of all assessed valuation.

5. Whether the area of any existing county from which territory is taken to form such new county will be reduced to less than twelve hundred square miles of surveyed land, by taking the territory proposed to be taken therefrom to form such new county.

6. Whether the area of the proposed new county will contain at least one thousand square miles of surveyed land to form such new county.

7. The class to which said proposed new county after its creation will belong, and the name of said proposed new county, as stated in such petition.

8. Whether the area embraced within the proposed new county will be reasonably compact.

On final hearing the Board of Commissioners, upon petition of not less than fifty per cent. of the qualified electors (as shown by the official registration books on the day of the filing of any such petition) of any territory lying within said proposed new county contiguous to the boundary line of the said proposed new county and of the old county from which such territory is proposed to be taken, and lying entirely within a single old county and described in said petition, asking that said territory be not included within the proposed new county, must make such changes in the proposed boundaries as will exclude such territory from such new county, and shall establish and define such boundaries. On final hearing the Board of Commissioners, upon petition of not less than fifty per cent. of the qualified electors who are resident property taxpayers of any territory lying outside said proposed new county, and contiguous to the boundary line of said proposed new county, and of the old county or counties from which such territory is proposed to be included, asking that said territory be included within the proposed new county, must make such changes in the proposed boundaries as will include such territory in such new county, and shall establish and define such boundaries; provided, however, that the segregation of such territory from any old county or counties shall not leave such county or counties with less than Eight Million Dollars of assessed valuation, based upon the last assessment roll; Provided, that if no change or changes so made shall result in reducing the valuation of the proposed new county to less than an assessed valuation of Four Million Dollars, inclusive of all assessed valuation; and provided, further, that no change shall be made which shall leave the territory so excluded, separate and apart from and without the county of which it was formerly a part. Petitions for exclusion shall be disposed of in the order in point of time in which they are filed with the Clerk of the Board of County Commissioners, and on final determination of boundaries no changes in the boundaries originally proposed shall be made except as prayed for in said petition or petitions, or to correct clerical errors or uncertainties.

Section 4394. If the said Board of County Commissioners determines that the formation of said proposed new county will not reduce any county from which any territory is taken to an assessed valuation of less than Eight Million Dollars, inclusive of the assessed valuation, nor the area thereof to less than twelve hundred square miles of surveyed land, and that the proposed new county contains property of an assessed valuation of at least Four Million Dollars, inclusive of all assessed valuation, and that the proposed new

county has an area of at least one thousand square miles of land, and that no line of said proposed new county passes within fifteen miles of the courthouse situate at the county seat of any county proposed to be divided, except as hereinbefore provided, and that said petition contains the genuine signatures of at least fifty-eight per cent. of the qualified electors of the proposed new county, or in cases where separate petitions are presented from portions of two or more existing counties (as herein required), that each of said petitions contains the genuine signatures of at least fifty-eight per cent. of the qualified electors of that portion of the proposed new county from which it is taken, then the said Board of County Commissioners shall divide the proposed new county into a convenient number of township, road, and school districts, and define their boundaries and designate the names of such districts. Said Board of County Commissioners shall also, if necessary for the purpose of the election hereinafter provided for, change the boundaries of the election precincts in said old county or counties to make the same conform to the boundaries of the proposed new county; provided, that the boundary lines of no such precinct shall extend beyond the boundary lines of the then existing county in which it is located and from which the territory is proposed to be taken; and said Board shall appoint election officers to act at said election and to be paid by said Board. Within two weeks after its determination of the truth of the allegations of said petition as aforesaid, the said Board of County Commissioners shall order and give proclamation and notice of an election to be held on a specified day in the territory which is proposed to be taken for the new county, not less than ninety days nor more than one hundred and twenty days thereafter, for the purpose of determining whether such territory shall be established and organized into a new county; and for the election of officers and location of a county seat therefor, in case the vote at such election shall be in favor of the establishment and organization of such new county. All qualified electors residing within the proposed new county who are qualified electors of the county or counties from which territory is taken to form such proposed new county, and who have resided within the limits of the proposed county for a period of more than six months next preceding the day of election, and who are registered under the provisions of the registration laws of the State, shall be entitled to vote at said election. Registration and transfers of registration shall be made and shall close in the manner and at a time provided by law for registration and transfers of registration for a general election in the State of Montana. Such proclamation and notice of election shall be published at least once a week for three weeks before the holding of such election, in some newspaper of general circulation published in the territory which is proposed to be taken for the new county, and a copy thereof shall be mailed immediately by the County Clerk of the county in which the petition is filed to the County Clerk of each county from which territory is taken for the proposed new county. Such proclamation and notice shall require the voters to cast ballots which shall contain the words, "For the new county of..... (giving the name of the proposed new county)," "Yes," and "For the new county of..... "No," and each voter desiring

.....," "Yes," (giving the name of the proposed new county)," in the manner now required by law in other elections, and each voter desiring to vote against the establishment and organization of said new county shall mark a cross

(X) opposite the words, "For the new county of....." "No," in the manner now required by law in other elections; and shall also contain the names of persons to be voted for to fill the various elective offices designated in said proclamation for counties of the class to which said proposed county will be long, as determined by the Board of County Commissioners as herein otherwise provided. There shall also be printed upon said ballot the words, "For the county seat," and the names of all cities or towns which may have filed with the County Clerk a petition signed by at least twenty-five qualified electors, nominating any city or town within the proposed new county for the county seat, and the voter shall designate his choice for county seat by marking a cross (X) opposite the name of the city or town for which he desires to cast his ballot. At the special election to be held, as provided in this Act, the question of the election of the county seat is hereby provided to be submitted to the qualified electors of the proposed new county, and the majority of all the votes cast therefor shall determine the election thereon. In case any city or town fails to receive a majority of all the votes cast, then the city or town receiving the highest number of all votes cast shall be designated as the temporary county seat, and in case any city or town is not the choice of the election for the county seat by a majority of all the votes cast, the question of choice between the two cities or towns for which the highest number of votes shall have been cast shall be submitted in like manner to the qualified electors at the next general election thereafter. When the county seat shall have been selected as herein provided, it shall not thereafter be changed except in the manner provided by law.

The proclamation calling the election and the notice thereof provided for in this Act shall be made and given exclusively by the Board of County Commissioners with which is filed the said petition for the formation and establishment of such new county, and such Board shall cause the Clerk of said county to furnish to the officers of each precinct in such proposed new county all ballots, poll lists, tally lists, registers, for voters' signatures, ballot boxes, and other election supplies and equipment necessary to conduct such election, and which are not hereinafter specifically directed to be furnished by the Clerk of another county or counties. Such election shall be governed and controlled by the general election laws of the State, so far as the same shall be applicable, except as herein otherwise provided. The returns of all elections for the creation of the county, and for officers and for location of the county seat as provided for in this Act, shall be made to and canvassed by the Board of County Commissioners of the county from which the largest area is taken by the proposed county.

The County Clerk of each county from which territory is taken for the proposed new county shall, not less than five days before the date of such election, furnish to each board of election within said proposed new county, a copy of the official register for the precincts of such proposed new county as are within their respective counties, and the copies of indexes thereof required by law,

containing the names of all persons who were qualified electors at the last general election before the date of such election.

All returns of election herein provided for shall be made to the Board of County Commissioners calling such election.

All nominations of candidates for the office required to be filled at said election shall be made in the manner provided by law for the nomination of candidates by petition.

The provisions of the election laws relating to preparation, printing, and distribution of sample ballots, except the provisions of said laws relating to primary elections in this State, shall have application to any election provided for in this Act.

Section 4395. If, upon the canvass of the votes cast at such election, it appears that fifty-eight per cent. of the votes cast are "For the new county of.....," "Yes," the Board of County Commissioners shall, by a resolution entered upon its minutes, declare such territory duly formed and created as a county of this State, of the class to which the same shall belong, under the name

of..... county, and that the city or town receiving the highest number of votes cast at said election for county seat shall be the county seat of said county until removed in the manner provided by law, and designating and declaring the person receiving respectively the highest number of votes for the several offices to be filled at said election, to be duly elected to such offices. Said Board shall forthwith cause a copy of its said resolution, duly certified, to be filed in the office of the Secretary of State, and ninety days from and after the date of such filing said new county shall be deemed to be fully created, and the organization thereof shall be deemed completed, and such officers shall be entitled to enter immediately upon the duties of their respective offices upon qualifying in accordance with law and giving bonds for the faithful performance of their duties, as required by the laws of the State. The Clerk of the Board of County Commissioners with which said petition was filed, as herein provided, must immediately make out and deliver to each of said persons so declared and designated to be elected, a certificate of election authenticated by his signature and the seal of said county. The persons elected members of the Board of County Commissioners and the County Clerk shall immediately, upon receiving their certificates of election, assume the duties of their respective offices.

The Board of County Commissioners shall have authority to provide a suitable place for the county officers, and to purchase such supplies as may be deemed necessary for the proper conduct of the county government. All other officers take office ninety days after the filing of the resolution herein provided for with the Secretary of State. All the officers elected at said election, or appointed under this Act, shall hold their offices until the time provided by general law for the election and qualification of such officers in this State, and until their successors are elected and qualified, and for the purpose of determining the term of office of such officers, the years said officers are to hold office are to be computed respectively from and including the first Monday after the first day of January following the last preceding general election. If, however, upon such canvass it appears that more than forty-two per cent. of the votes cast

at said election are "For the new county of....." "No," the Board of County Commissioners canvassing said vote as provided herein shall pass a resolution in accordance therewith, and thereupon the proceedings relating to division of such county or counties shall cease; and no other proceedings in relation to any other division of said old county or counties shall be instituted for at least two years after such determination.

Section 4396. At the election provided for in Section 4394 of this Code, there shall be chosen such county, township and district officers as are now or may hereafter by general law be provided for in counties of the class to which the said new county is determined to belong, as herein provided; provided, that all duly elected, qualified and acting officers of the county or counties, who may reside within the proposed new county, shall be deemed to be officers of said new county if they file with the Board of County Commissioners, whose duty it shall be to call the election, within five days after the final hearing and determination of said petition for such proposed new county, their intention to become officers of said proposed new county, and the Board of County Commissioners issuing the proclamation of any election, as in this act provided, shall omit providing for the election of any such officers as may have filed their declaration as herein provided; and provided, also, that all duly elected, qualified and acting Justices of the Peace and Constables residing within the proposed new county at the time of the division of such county into townships, as hereinbefore in Section 4394 hereof provided, shall hold office as such Justices of the Peace or Constables in said county for the remainder of the term for which they were elected on qualifying as Justices of the Peace or Constables for the respective townships in which they reside, when said townships are organized as provided in this Act; provided, further, that all duly elected, qualified and acting school trustees residing within the proposed new county at the time of the division of such county into school districts, as hereinbefore in Section 4394 provided, shall hold office as school trustees in said new county for the remainder of the term for which they were elected on qualifying as school trustees for the respective districts in which they reside, as said districts are organized as provided by this Act. Each person elected or appointed to fill an office of such new county under the provisions of this Act shall qualify in the manner provided by law for such officers, except as herein otherwise provided, and shall enter upon the discharge of the duties of his office within such time as herein provided, after the receipt of the certificate of his election. Each of such officers may take the oath of office before any officers authorized by the laws of the State of Montana to administer oaths, and the bonds of any officer from which a bond is required shall be approved by any Judge of the District Court of the district to which such new county is attached for judicial purposes. The officers elected or appointed under the provisions of this Act shall each perform the duties and receive the compensation now provided by general laws for the office to which he has been appointed or elected in the counties of the class to which such new county shall have been determined to belong, as herein provided under the general classification of counties in this State.

Said new county, when created and organized in pursuance of the provisions of this Act, shall be attached to such judicial district as may be designated by the Governor of the State of Montana, in a proclamation to be issued by him, designating such new county as attached to the particular judicial district for judicial purposes.

Section 4397. It shall be the duty of the persons elected to or continuing to hold the office of County Commissioners of said new county to meet at the county seat thereof within five days after all of them shall have qualified, and upon organization of said Board of County Commissioners it shall notify the Governor of the State of the organization of said county, and thereupon it shall be the duty of the Governor to appoint three persons, one of whom shall be a resident and a taxpayer within the new county, and no two of whom shall be from any one county; the three persons so appointed shall form and be a Board of Commissioners. Such Commissioners shall, within ten days after the notice of the appointment, meet at the county seat of the new county and organize by electing from their number a chairman, and also elect a secretary who must not be a member of said Commission. Thereafter such Commission may meet at such place or places as it may select. A majority of such Commissioners shall constitute a quorum for the transaction of business. Said Commission shall have power to compel by citation or subpoena, signed by their president and secretary, the attendance of such persons and the production of such books and papers before said Commission as may be required in the performance of the duties imposed by this Act, except that the official records of any county or counties from which said new county was formed shall in no case be taken away from the county seat of said county. It shall be the duty of the Sheriff of any county to execute in his county all lawful orders and citations of the said Commission; and for any services so performed the Sheriff shall be allowed the same fees as are allowed to him for services in civil actions; and all witnesses attending before said Commission shall be entitled to the same compensation and mileage as is allowed to witnesses in courts of record; provided, that no witness shall be excused from attendance at the time and place mentioned in said order or citation by reason of the failure of the officer making such service to tender to such witness his fees and mileage in advance.

Section 4398. Said Board of Commissioners shall immediately after its organization ascertain the costs of the election held hereunder, and apportion the same pro rata among each of the counties from which territory was taken to form such new county; shall ascertain the indebtedness of each county from which territory was taken to form the new county, as the same existed at the time when the result of the election was declared by the Board of County Commissioners, as hereinbefore provided, and also ascertain the total value of all property at the time belonging to each of said counties from which territory was taken and situated within the limits of said old counties, respectively. It shall also ascertain the assessed value of all property in each of the original old counties from which territory was so taken, according to the last completed assessment made for said county, and also the assessed value, under the same assessment made for said county, and also the assessed value, under the same assessment of all property within the territory of the new county which shall have been taken from the old county or counties from which said

new county was formed. They shall then find the difference between the amount of the indebtedness of the old county and the value of the property belonging to the old county at the date of the declaration of the result of said election, as hereinbefore provided, and if such indebtedness exceeds the value of such property belonging to the old county, the new county shall pay to the old county a due proportion thereof, to be determined as follows:

"As said assessed value of the property in the old county is to the said assessed value of the property in the territory provided by this Act to be incorporated within the new county from said old county, so is the amount of said excess to the amount to be paid by said new county to said old county."

Said Board of Commissioners shall certify forthwith to the Board of County Commissioners of the new county and the old counties thereby affected, the amount constituting the due proportion of said excess payable by such new county to each of them; also the value of any property belonging to each old county at the time when said division took effect (as hereinbefore provided) which is situated in the new county. The sum of said ascertained value of said last mentioned property added to the ascertained proportion of said excess which the new county is to pay the old county, and its proportion of the expense of said election as aforesaid, shall be an indebtedness from the new county to the old county, and the said property situated as aforesaid in the new county shall upon settlement therefor, as provided in this Act, become the property of the new county; and the old county shall pay the entire indebtedness against it, and the expense of said election shall be paid by the county calling such election, and any other county affected thereby shall pay its proportion thereof, as hereinbefore provided. The proceedings in this section required to be taken in the ascertainment and adjustment of property rights and debts shall be had and taken as between said new county and each of the counties from which territory is taken to form said new county, in the manner and at the ratio in said section provided. If, upon the settlement between the old and new county as herein provided for, the new county shall be found to be indebted to the old county, or either of the old counties, the money necessary to pay said indebtedness shall be raised by a tax levied upon the property contained in said new county, and said new county shall pay the same; provided, however, that such payment by said new county may be made in not more than three equal annual payments, or by funds to be derived from the sale of bonds of said new county, as may be determined by a resolution of the Board of County Commissioners of said new county, adopted within one year after the receipt of the statement from the Board of Commissioners, as aforesaid, of the amount or amounts due from it. If the value of the property belonging to the old county exceeds the indebtedness of the old county, then the old county shall pay to the new county a due proportion of such excess, which proportion shall be determined by the Board of Commissioners, and shall be paid by the old county to the new county in the same manner and subject to the same conditions herein provided for payment by the new county to the old county, when the indebtedness of the old county exceeds the value of the property in the old county. In the determination of the value of county property all buildings and their furniture, real estate, road tools, and

machinery and all steel bridges which may have been constructed and in use for a less period than ten years, shall be taken into consideration by the said Commissioners.

Delinquent taxes due to the old county against property situated in the new county shall be transcribed in and collected by the new county.

Section 4399. Members of the Board of Commissioners provided for under this Act shall receive a compensation of not to exceed Eight Dollars per day for every day they are actually employed under the provisions of this Act, all of which expenses, together with the reasonable expenses of stationery, postage, and incidental expenses, shall be borne in equal proportions by the counties affected by such division, including said new county, and the amounts payable by each county shall be paid by the Treasurers of the respective counties, after the same shall have been presented to and allowed by the Board of County Commissioners, as is provided by law for claims against any county.

Section 4400. After the creation of a new county, as herein provided, its officers shall proceed to complete all proceedings necessary for the assessment or collection of the State and county taxes for the then current year, and all acts and steps theretofore taken by the officers of the old county or counties prior to the creation of the new county shall be deemed and taken as having been performed by the officers of the new county for the benefit of the new county; and upon the creation of the new county it shall be the duty of the officers of the old county or counties to immediately execute and deliver to the Board of County Commissioners of such new counties copies of all assessment and collection of the current State and county taxes of property in such new county. Such copies shall be filed with the respective officers of the new county who would have the custody of the same if the proceedings had been originally had in the new county, and such certified copies shall be taken and deemed as originals and original proceedings in the new county, and all proceedings therein recited shall be taken and deemed as original proceedings in the new county, and shall have the same effect as if the proceedings therein stated had been had at the proper time and in the proper manner by the respective officials of the new county; and the officials of the new county are hereby authorized and directed to proceed thenceforth with the assessment and collection of said taxes as if the proceedings originally had in the old county or counties had been originally had in the new county.

Section 4401. The County Superintendent of Schools of the old county, or each of the old counties, respectively, shall furnish the County Superintendent of Schools of the new county with a certified copy of the last school census of the different school districts in the territory set apart to form the new county, and shall certify to the Board of County Commissioners the amount due; and said Board shall order a warrant drawn on the Treasurer of the new county for all the money that is or may be due by any apportionment or otherwise to the different school districts embraced in the new county from his county; and the County Treasurer shall certify to the County Commissioners the amount due in the different road funds, and the County Commissioners shall order a warrant drawn on the Treasurer of their county in favor of the new county for all money

that is or may be due by apportionment or otherwise to the different road and district funds in the territory set apart to form the new county from their county, which said amounts shall be properly credited in both counties. And whenever, in the formation of a new county, a road or school district has been divided, the Board of County Commissioners shall, by resolution, direct the Treasurer to transfer the proper proportionate amount of the money remaining in the fund of such district to the Treasurer of the new county.

Section 4402. The Board of County Commissioners of any new county formed as aforesaid must provide suitable books, and have transcribed from the records of the old county or counties all such parts thereof as relate to or affect property, or the title thereof, situated in the new county, and said records when so transcribed and certified as herein provided, shall have the same force and effect as such original records; the said County Commissioners shall have full power and authority to contract for transcribing of records as now provided by law; provided, that all chattel mortgages, renewals of chattel mortgages, articles of incorporation, contract notes, sheriff certificates of sale, liens and original affidavits of registration, which may affect or relate to property or persons situate within the new county, shall be by the County Clerk of the old county delivered to the County Clerk of the new county, and be preserved by said County Clerk of the new county as permanent files of such new county.

Section 4403. All actions pending in the District Court of the old county or counties for the recovery of the possession of, quieting title to, or for the enforcement of liens upon, or any other actions affecting real estate lying the new county shall, on motion of any party thereto, be transferred to the District Court to which the new county may be attached for judicial purposes, and thereafter shall be subject to the same laws as if said action had been originally brought in the District Court of the new county. All other actions or special proceedings pending in the District Court or Courts of said old county or counties, if said new county had been in existence at the date in which it is pending, and on motion of any party interested therein, shall be transferred to the District Court of such new county.

Section 4404. Whenever in this Act publication of any notice is provided for, and no newspaper of general circulation is published within the territory in which said notice is required to be published, notice shall be given by posting copies of such notices in at least ten public places in such territories for the same length of time said notice was required to be published.

Section 4405. The territory within the limits of any new county, until otherwise provided by law, shall be entitled to representation in the State Senate by one State Senator; and to representation in the House of Representatives by one member of the House of Representatives.

Section 4406. Any member of the Board of County Commissioners, of any other officer who unlawfully and knowingly violates any of the provisions of this Act, or fails or refuses to perform any duty imposed upon him hereunder, shall be guilty of a misdemeanor and of malfeasance in office, and shall be deprived of his office by a decree of a court of competent jurisdiction, after trial and conviction.

Section 4407. All Acts and parts of Acts in conflict herewith are hereby repealed, with the exception: This Act shall not apply in any cases whereby the election has been held under the Act passed by the Fifteenth Legislative Session for the creation of counties and a majority vote has been cast in favor thereof, but the provisions of this Act shall be deemed in full force and effect so far as they may affect any proposed new county now in process of creation, unless said new county can comply with the requirements of this Act; and it is hereby made the duty of the Board of County Commissioners which may have ordered any election in pursuance of existing laws to immediately make an order annulling and setting aside all further proceedings in relation to such proposed new county, including an order to nullify and set aside any election order theretofore made; provided, if any order is made nullifying and setting aside any election as provided in this section, any bond which may have been given in pursuance with the provisions of law relating to the costs of election for the creation of any proposed new county shall be deemed void, and no liability shall be incurred thereunder.

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## REMOVAL OF COUNTY SEAT.

### Constitutional Provision—Article XVI.

Section 2. The Legislative Assembly shall have no power to remove the county seat of any county, but the same shall be provided for by general law; and no county seat shall be removed unless a majority of the qualified electors of the county, at a general election on a proposition to remove the county seat, shall vote therefor; but no such proposition shall be submitted oftener than once in four years.

### Code Provisions.

Section 4369. Whenever the inhabitants of any county of this State desire to remove the county seat of a county from the place where it is fixed by law, or otherwise, to another place, they may present a petition to the Board of County Commissioners of their county praying such removal, such place to be named in the petition, and that an election be held to determine whether or not such removal must be made. The petition to remove the county seat of the county from the place where it is fixed by law to another place must be presented to the Board of County Commissioners at least sixty days prior to any action thereon being taken by the Board of County Commissioners, and action on said petition by the Board of County Commissioners must be had at a regular meeting of said Board of County Commissioners. Such petition must be filed with the County Clerk, and the County Clerk, immediately upon the filing of said petition, must cause to be printed in every newspaper published within said county a notice to the effect that a petition praying for the removal of said county seat has been filed with the County Clerk, and that said petition is open to the inspection of any and all persons interested therein, and that said petition will be presented to the Board of County Commissioners at its next regular session for action thereon. No other or additional petition than the one originally filed shall be considered by the Board of County Commissioners, except that at any time on or before the date fixed for the hearing, any person having signed the original petition for the removal of the county seat may file

a statement in writing with the County Clerk that he desires to have his name withdrawn from such petition; provided that not more than one withdrawal shall be permitted by the same person.

Section 4370. If the petition is signed by sixty-five per cent. of the taxpayers of such county, the Board of County Commissioners must at the next general election submit the question of removal to the electors of the county; provided that the term "taxpayers" used in this section shall be deemed to mean "ad valorem taxpayers," and that for the purpose of testing the sufficiency of any petition which may be presented to the County Commissioners as provided in this section, the County Commissioners shall compare such petition with the poll books in the County Clerk's office constituting the returns of the last general election held in their county, for the purpose of ascertaining whether such petition bears the names of sixty-five per cent. of the taxpaying voters listed therein; and they shall make a similar comparison of the names signed to the petition with those appearing upon the listed assessment roll of the county for the purpose of ascertaining whether the petition bears the names of sixty-five per cent. of the ad valorem taxpayers as listed in said assessment roll; and if such petition then shows that it has not been signed by sixty-five per cent of the voters of the county who are advalorem taxpayers thereof, after deducting from the said original petition the names of all persons who may have signed such original petition, and who may have filed, or caused to be filed with the County Clerk of said county or the Board of County Commissioners, on or before the date fixed for the hearing, their statement in writing of the withdrawal of their names from the original petition, it shall be deemed insufficient, and the question of the removal of the county seat shall not be submitted.

Section 4371. Notice of such election, clearly stating the object, must be given, and the election must be held and conducted, and the returns made in all respects in the manner prescribed by law in regard to the submitting of questions to the electors of a locality under the general election law.

Section 4372. In voting on the question, each elector must vote for the place in the county which he prefers by placing opposite the name of the place the mark X.

"Section 4373. When the returns have been received and compared, and the results ascertained by the board, if a majority of the qualified electors of the county have voted in favor of any particular place, the board must give notice of the results by posting notices thereof in all the election precincts of the county, and by publishing a like notice in a newspaper printed in the county at least once a week for four weeks."

Section 4374. In the notice provided for in the next preceding section, the place selected to be the county seat of the county must be so declared from a day specified in the notice not more than ninety days after the election. After the day named in the notice, the place chosen is the county seat of the county.

Section 4375. Whenever any election has been held, as provided for in the preceding section of this chapter, the statement made by the Board of County Commissioners showing the result thereof must

be deposited in the office of the County Clerk, and whenever the Board gives the notice prescribed by Section 4374 of this Code, they must transmit a certified copy thereof to the Secretary of State.

Section 4376. When an election has been held and a majority of the votes are not cast for some other place than that fixed by law as the former county seat, no second election for the removal thereof must be held within four years thereafter.

Section 4377. When the county seat of a county has been once removed by a popular vote of the people of the county, it may be again removed from time to time in the manner provided by this chapter.

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## COUNTY BOND ELECTIONS.

### Indebtedness.

#### Constitution—Article XIII.

Section 5. No county shall be allowed to become indebted in any manner, or for any purpose, to an amount including existing indebtedness, in the aggregate, exceeding five (5) per centum of the (value of the) taxable property therein, to be ascertained by the last assessment for State and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of such county shall be void. No county shall incur any indebtedness or liability for any single purpose to an amount exceeding Ten Thousand Dollars (\$10,000.00) without the approval of a majority of the electors ~~thereof~~, voting at an election to be provided by law.

Section 4717. The Board of County Commissioners must not borrow money for any of the purposes mentioned in this title, or for any single purpose to an amount exceeding Ten Thousand Dollars without the approval of a majority of the electors of the county, and without first having submitted the question of a loan to a vote of such electors; provided, that it shall not be necessary to submit to the electors the question of borrowing money to refund outstanding bonds, or for the purpose of enabling any county to liquidate its indebtedness to another county incident to the creation of a new county or the change of any county boundary lines.

Section 4718. Whenever it is necessary to submit to a vote of the electors of the county the question of making a loan, the Board must first determine the amount necessary to be raised.

Section 4719. Notice of the election, clearly stating the amount to be raised, and the object of the loan, must be given, and the election held and conducted, and the returns made in all respects in the manner prescribed by law in regard to the submission of questions to the electors of a locality under the general election law.

Section 4720. There must be written or printed on the ballots the words "For the loan" and "Against the loan," and in voting the elector must vote for the proposition he prefers by making an X opposite the proposition.

Section 4721. If a majority of the votes cast are in favor of the loan, then the Board may make the loan, issuing bonds or otherwise, as may seem best for the interests of the county.

Section 4722. That hereafter whenever, in due course of law, in the manner and form required by law and according to the provisions and requirements of law, any question or proposition of or relating to bonded indebtedness, or of issuing books or of refunding, increasing or creating a bonded indebtedness, is submitted, ordered submitted or to be submitted, to the electors of any county, at a general or other election, when at the same time candidates for national, State, or county office or offices are to be voted upon, or for by the qualified electors of such county, such question or proposition relating to bonds or bonded indebtedness shall not be placed or printed upon the official ballots furnished electors at such election for the purpose of voting for candidates for any office or offices, and containing the names of candidates for office or offices to be voted for at such election; but the County Commissioners shall authorize; and the County Clerk shall have printed and furnished to election judges and officials in each voting precinct of such county separate ballots therefor, equal in number to the official ballots so furnished, and containing the names of such candidates for office. Said separate ballots shall be white in color and of convenient size, being only large enough to contain the printing required to be done and placed thereon, and shall have printed thereon in fair-sized, legible type and black ink, in one line or more, as required, the words "For" said bonding proposition (stating it and the terms thereof explicitly and at length), and thereunder the words "Against" said bonding proposition (stating it and the terms thereof explicitly and at length, in like manner as above); and there shall be before the word "For" and before the word "Against," each, a square space of sufficient size to place a plain cross or X therein, and such arrangement shall be in this manner:



For (stating propositions.)

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Against (stating propositions.)

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Such separate ballots shall be kept, stamped, given out, received, counted, returned, and disposed of by election judges in like manner as other official ballots herein referred to. Each qualified elector offering to vote and permitted to vote shall, at the time he is offered by the election judges an official ballot bearing the names of candidates for office, be handed one of the separate ballots above described, and he may then and there, in a booth as provided by law, and not otherwise, vote on such separate ballot for or against said proposition by placing a cross or X before the word "For" or the word "Against" in the vacant square provided therefor; and such separate ballot shall be returned to the election judges by the voter with said other official ballot if the voter chooses to vote for candid-

dates for office and is entitled to do so. The election judges shall deposit said separate ballot on the bonding proposition separate from the voter's other official ballot, in the ballot box.

## BONDS FOR BRIDGE AND HIGHWAY CONSTRUCTION.

Section 4712. The County Commissioners of any county in the State of Montana, whenever a petition signed by ten per cent. of the resident taxpayers of the county is filed with the County Clerk and Recorder, shall cause to be submitted to the voters of the county, on the same date as is held the next general election following the filing of the said petition, the question of whether or not the county shall issue bonds for an amount exceeding Ten Thousand Dollars, for the purpose of securing money to construct a bridge at or near such place in the county as is designated by the petition; provided, however, that said petition shall be filed with the County Clerk and Recorder not later than seventy-five days previous to the date of the holding of any general election.

Provided, further, that whenever a petition or petitions are filed with the County Clerk and Recorder praying that the question or questions of issuing bonds for the construction of more than one bridge in the same locality in a county be submitted to a vote, the County Commissioners shall elect and cause to be submitted to a vote only one of said questions. This Act, however, shall not preclude the County Commissioners from submitting more than one bridge bonding question to a vote at the same election, in case separate ballots are provided for each such question.

Section 4713. The Board of County Commissioners may, in their discretion, for the purpose of constructing roads and bridges, make an increased levy upon the taxable property of the county of ten mills or less; provided, that such portion of the funds derived under the provision of this Act as are expended on State and main highways shall be expended under plans approved by the State Highway Commission.

Section 4714. Before such increased levy shall be made, the question shall be submitted to a vote of the people at some general or special election and shall be submitted in the following form, inserting the number of mills proposed to be levied:

"Shall there be an increased levy of.....mills upon the taxable property of the County of....., State of, Montana, for the purpose of constructing roads and bridges?



Yes.



No."

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Section 4715. A majority of the votes cast shall be necessary to adopt such measures.

Section 4716. Such levy shall be collected in the same manner as other road taxes are collected.

#### BONDS TO COVER DROUGHT RELIEF.

Section 4680. To enable the several counties of the State of Montana to provide relief for their inhabitants, who by reason of misfortune are entitled to the aid of society, the Boards of County Commissioners of all counties in this State, upon petition as hereinafter provided for, are hereby authorized to purchase and provide seed-grain, feed, provisions, and other necessary supplies, and to furnish the same to the inhabitants of their several counties who, by reason of drought, hail, or other unfavorable climatic conditions, have been rendered financially unable to procure the same.

Section 4681. Petitions for such relief must be in writing and signed by not less than one hundred freeholders residing in a county, and must be filed with the County Clerk of such county; provided, however, that the signatures need not be appended to one paper, but each signer shall add to his signature his postoffice address and the number of his voting precinct, and all such papers when bound or fastened together and filed shall constitute and be considered as one petition.

Section 4682. Upon the filing of such petition with the County Clerk, such officer must forthwith call a special meeting of the Board of County Commissioners of such county to consider such petition, and the date fixed for such meeting shall be not more than five days after the filing of such petition. Written notice of the calling of such special meeting shall be given each member of the Board by the County Clerk, by delivering such notices personally or by registered mail; provided, however, that if any one member shall fail to attend such meeting by reason of not receiving such notice, or for any other reason, the other two members of said Board may hold such meeting; and provided, further, that notice of such meeting may be dispensed with by the unanimous consent of all of the members of such Board, which consent must be entered on the minutes of such meeting.

Section 4683. At such meeting the Board shall examine such petitions and make or cause to be made such investigation as may be necessary for the Board to ascertain and determine whether or not it is necessary that such county supply and furnish any of its inhabitants with seed grain, feed, provisions or other supplies. If a majority of the Board shall find and determine from such investigation that it is necessary for such county to do so, the Board shall make on order granting such petition, and shall make an estimate of the quantity of seed-grain, feed, provisions, or other supplies required for such purpose, and also of the amount of indebtedness the county will be required to incur in order to supply the same. The findings and determination of the Board, together with its estimates and the order granting the petition, shall be entered on the minutes of the Board.

Section 4684. If the said estimate of the amount of indebtedness required to be incurred does not exceed the sum of Ten Thousand Dollars, and, together with the then existing indebtedness of such county, does not exceed the constitutional limit of indebtedness the Board of County Commissioners shall proceed to purchase the seed-grain, feed, provisions, or other supplies, and to furnish and supply the same in the manner hereinafter provided. Said relief shall be furnished to applicants therefor of the class specified in this Act, who are inhabitants of such county, and who have filed the application and statement hereinafter specified; provided, however, that such county shall not incur an indebtedness for such purpose in excess of Ten Thousand Dollars, except as hereinafter provided.

Section 4685. If the estimate of the Board of County Commissioners of the amount of indebtedness which the county will be required to incur in order to supply and furnish the relief herein provided for exceeds the sum of Ten Thousand Dollars, the Board must forthwith call a special election for the purpose of submitting to the electors of such county the question of whether or not such county shall incur an indebtedness to the amount of such estimate, together with the then existing indebtedness of such county, will exceed the constitutional limit of indebtedness, then in any amount less than the amount of such estimate, and which will not, together with the then existing indebtedness of such county, exceed the constitutional limit of indebtedness, for the purpose of furnishing and supplying the relief herein provided for to the inhabitants of such county, and who are financially unable to procure the same; provided, however, that such election may be held at the same time as any other special election called for any purpose.

Section 4686. Said special election shall be called for a day not less than fifteen days nor more than thirty days after the day on which the order is made by such Board for the holding of such special election, and the Board shall give notice of the calling of such election by issuing an election proclamation, which proclamation shall be published two successive times in the newspaper published in such county having the contract for publishing official notices of such county, if such newspaper be published weekly, but if it be published daily, then eight successive insertions thereof, and copies of such proclamation shall be posted in three public places in each voting precinct in such county at least ten days before the day on which such election is to be held. Said proclamation shall clearly state the amount of indebtedness to be incurred, the purpose of which said indebtedness is to be incurred, the day on which such election is to be held, and the hours when the polls will be open, and no other notice shall be given of the calling or holding of such election.

Section 4687. Said election, except as herein otherwise provided, shall be held and conducted, and the returns thereof made and canvassed in all respects in the manner prescribed by law in regard to the submission of questions to the electors of a county under the general election law.

Section 4688. None of the provisions of Sections 566 and 567 of this Code, shall apply to said election, but the County Clerk shall close registration for such election at 5 o'clock p. m. on the eleventh day before the day on which said election is to be held, and all

electors whose names shall appear on the registration books of such county at the time the same are closed for such election shall be entitled to vote at such special election; provided, however, that if any person whose name does not appear on the register of voters for the precinct in which such person resides, shall request the judges of election for such precinct to permit him to vote at such election, such judges shall enter the name of such person upon the register of voters for such precinct upon such person taking the oath, answering the questions, and complying with such other provisions of Section 554 of this Code, as are required for registration, and thereupon such person shall be permitted to vote at such election. The judges of election for each election precinct are hereby designated and appointed Deputy Registrars, within their respective election precincts, for the purpose of carrying out the provisions of this section, and shall have all the powers and perform all of the duties of the Registrar authorized and required by said Chapter 122, Acts of the Fourteenth Legislative Assembly. The judges of election shall, at the same time and in the same manner the election returns of such election are delivered or mailed to the County Clerk, deliver or mail to the County Clerk all affidavits and registry cards made and filled out before them at such election. The County Clerk shall provide such election judges with a suitable number of blank affidavits and registry cards for use in their respective precincts during such election.

Section 4689. The ballots for such special election shall conform as near as possible with the ballots used at general elections, and shall have printed thereon in fair sized legible type and black ink, in one or more lines as required, the words "for incurring an indebtedness not exceeding the sum of (stating the amount) for the purpose of purchasing seed-grain, feed, provisions, and other necessary supplies to be furnished and supplied by the county to its inhabitants who are financially unable to procure the same, and who have been reduced to such condition by reason of drouth, hail, or other unfavorable climatic conditions." And thereunder, in one or more lines as required, the words "against incurring an indebtedness not exceeding the sum of (stating the amount) for the purpose of purchasing seed-grain, feed, provisions, and other necessary supplies to be furnished and supplied by the county to its inhabitants who are financially unable to procure the same, and who have been reduced to such condition by reason of drouth, hail, or other unfavorable climatic conditions." There shall be placed before the word "for" and before the word "against," each, a square space of sufficient size to place a cross or "X" therein.

Section 4690. If a majority of the votes cast at such special election are in favor of such indebtedness being incurred, then the Board of County Commissioners shall proceed to purchase and procure the seed-grain, feed, provisions, or other supplies, and to furnish and supply the same in the manner hereinafter provided to applicants therefor who are inhabitants of the county, who are in need of such relief, who have made application therefor as hereinafter provided, who are financially unable to procure such relief, and who have been reduced to such condition by reason of drouth, hail, or other unfavorable climatic conditions; provided, however, that no indebtedness shall be incurred for such purpose in excess of the amount authorized by such special election.

Section 4693. Whenever there are any warrants outstanding drawn against the "Special Relief Fund," and there is insufficient money in such fund to pay said warrants with the interest thereon, the Board of County Commissioners, whenever such Board deems it advisable to do so, may issue and sell or exchange bonds of said county for the purpose of funding such outstanding warrant indebtedness; provided, however, that it shall not be necessary for the Board of County Commissioners to submit to the electors of the county the question of whether or not such bonds shall be issued and sold or exchanged for the purpose of funding such outstanding warrant indebtedness.

Section 4700. All inhabitants of such county, who by reason of drouth, hail, or other unfavorable climatic conditions, are financially unable to procure the relief herein authorized, and who desire to avail themselves of the benefits of this Act shall file with the County Clerk of the county in which such applicant resides, an application duly sworn to before said County Clerk or some other officer authorized to administer oaths. Said application shall state that because of misfortune resulting from drouth, hail, or other unfavorable climatic conditions (stating the precise condition responsible for the misfortune), the applicant has not procured and is financially unable to procure the seed-grain, feed, provisions, or other supplies applied for; that the applicant desires the same for his own use or support, or for the use or support of his family or dependents residing in the State of Montana; that such relief is needed at once; that the same cannot be procured from any other source known to the applicant; and that the applicant will not sell or dispose of the same or any part thereof. In case the application be for seed-grain, it shall also state the following matters, to-wit: The number of acres owned by applicant; the number of acres plowed or prepared for seeding; the number of acres intended to be plowed or prepared for seeding; the amount and kind of grain required; the amount and kind of grain, if any, harvested by applicant the preceding season, and the amount and kind of grain, if any, in his possession. Said application shall also in such case contain an agreement that the applicant will use the seed-grain furnished and all thereof in seeding his land at the next ensuing planting season. Said application shall also in all cases contain a true and full description of all real and personal property owned by the applicant, if any, and the incumbrances thereon, together with a true description of the land upon which seed-grain is agreed to be sown. No application shall be considered by the Board of County Commissioners unless made out and filed as prescribed in this section.

Section 4701. The Board of County Commissioners shall constitute a board of examination and adjustment, and shall examine and adjust and approve or disapprove all applications filed under the provisions of this Act. Said Board shall meet at such time or times as the Board may deem necessary at the regular meeting place of the Board of County Commissioners, and examine and consider separately each and every application filed, and determine who are entitled to receive relief from such county, and the amount to which each applicant is entitled; provided, however, that no one applicant shall be entitled to receive relief exceeding in value the sum of One Thousand Dollars. On each application shall be indorsed the

approval or disapproval, of the Board, and if approved, the quantity and kinds of relief for which the same is approved, which indorsement shall be signed by the chairman of the Board, and all applications shall, immediately after being acted upon by the Board, be delivered to the County Clerk.

Section 4702. The County Clerk shall, as soon as said Board has delivered the applications to him, upon demand of each applicant whose application has been approved by said Board, issue to such applicant an order for the relief which has been allowed to said applicant, unless otherwise directed by the Board of County Commissioners, or chairman thereof. The applicant for relief shall, before receiving such order, execute to the county and deliver to the Board of County Commissioners his promissory note, and if a married man same shall be indorsed by his wife, for the cost of the seed-grain, feed, provisions, or other supplies ordered to be delivered to him. Such note shall bear interest at the rate of six per cent., and shall in ordinary cases be due in one year from its date; provided, however, that in all cases it shall be optional with the Board of County Commissioners, in the exercise of its discretion, to authorize the giving of said note for a longer period of time, or to modify the conditions of said note in any manner deemed advisable by the Board; Provided, further, that in all cases where applications are made for seed-grain under the terms of this Act, it shall be the duty of the Board of County Commissioners to investigate the financial condition and prospects of the applicant. If, after such investigation, the Board is satisfied that the applicant is the owner of land or other property upon which he is able to give security for the relief extended, or that there is a reasonable probability that the applicant will be able to repay the amount of said relief out of his crop to be raised the ensuing year, it shall be optional with said Board to refuse relief under the terms of this Act, and to require the applicant to avail himself of the terms of the seed-grain law, being Sections 4640 to 4676 of this Code. It is expressly declared that the purpose of this Act is to extend relief to financially destitute persons only, and that in all cases where applicants for seed-grain are unable to give the contract and security provided for in said Sections above named, that he shall be required to obtain relief under the terms of said Act; Provided, further, that in those counties where no provision has been made for seed distribution under the Seed-Grain Law provided in Sections 4640 to 4676 of this Code the Board of County Commissioners shall investigate the financial conditions and prospects of the applicant, and request such security from the applicant as they see fit.

Section 4704. It shall be the duty of Boards of County Commissioners, Constables, Sheriffs, and County Attorneys to diligently inquire into and prosecute all violations of any of the provisions of this Act.

Section 4707. In case the amount of money received by the County Treasurer in any one year in payment for articles furnished under the provisions of this Act shall be sufficient to pay all outstanding warrants and interest thereon, if such warrant indebtedness has not been funded by the issuance and sale or exchange of bonds, or shall be sufficient to pay the interest on and place in the bond fund a proportionate amount of the total amount required for

the payment and redemption of the bonds, if such warrant indebtedness has been funded by the issuance and sale or exchange of bonds, then no tax shall be levied for such purpose in that year, and in no year shall there be a greater tax levied than will, together with the balance then on hand in the county treasury, be sufficient to pay the interest and principal of all warrants or bonds then outstanding.

Section 4710. This Act, and all of its provisions, shall be liberally construed so as to effectuate its purpose, and a failure to give any of the notices herein provided for, or to perform any of the acts herein required within the exact time prescribed, shall not invalidate any election held hereunder, or any warrants or bonds issued, provided there has been a substantial compliance with the provisions of this Act except as to time.

Section 4711. It is expressly declared that this Act does not repeal or in any way modify or affect the provisions of Sections 4640 to 4676 of this Code, but that insofar as the furnishing of seed-grain is concerned, this Act is cumulative to the former Act, and provides an additional method by which seed grain relief may be procured by those in destitute circumstances.

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### SPECIAL ROAD DISTRICT LAWS.

Section 1664. The regular election for the electing of members of the Board of Directors shall be held in such District at the same time as regular general elections. The Secretary of such board shall cause written or printed notice to be posted at six different and public places in said Special Road District, specifying the date and place of such election and the time during which the ballot box or boxes shall be opened, not less than four hours, however, at each election. Said notices shall be posted in at least three conspicuous and public places as aforesaid in such district and whenever a newspaper published within ten miles of such road district, it shall be the duty of the president and secretary of said board to cause a notice to be published therein at least once, ten days previous to said election, giving notice of such election, and if the said officers of said district fail to give such notice required by this Act, then any two legal voters in and being freeholders there, may give such notice over their names and signatures, whereupon said election may be held at the date fixed by this act for said election.

Section 1665. Every elector, a taxpayer, who is legally qualified to vote at any general election, who is a bona fide resident and taxpayer, as aforesaid, of the road district for thirty days preceding the day of election, shall be entitled to vote. Any person offering to vote may be challenged by any legal and qualified elector of the district, or by any judge of election, and any judge of such election shall, to determine the qualifications of a voter, administer to the person challenged, an oath as follows:

"You do swear (or affirm) that you are a citizen of the United States; that you have resided in this State for the period of one year, or over, preceding this election; that you are over the age of twenty-one years; that you have resided in this county thirty days, and that you are a taxpayer and resided in this road district thirty days next

preceding this election; that you have not voted at this election, so help you God (or under the pains and penalties of perjury.)"

Section 1666. If any person challenged shall refuse to take said oath, his vote shall be rejected; and if any person shall be guilty of voting illegally, he shall be punished as provided in the general election laws of this State. The three members of the Board of Directors of the road district shall act as judges of election but should any of them be absent for any cause, at the time of opening of the polls, the electors present thereat shall appoint a legal voter to fill such vacancy.

If more than one polling place be provided in said road district, the Directors shall appoint three judges of election, who shall perform the duties required by law.

Section 1667. Immediately after the closing of the polls, the said judges shall proceed to count the ballots, and the person or persons qualified to be elected under this Act, who shall receive the largest number of votes, shall be declared elected, and the report of said election, signed by said judges, shall forthwith be transmitted to the County Clerk and Recorder of the county where such election is held, to be presented to the Board of County Commissioners for action and hearing as to the regularity of the election so held, and to be confirmed by said County Commissioners. If upon counting the votes there shall be a tie vote, the two persons having received such tie vote shall meet within twenty-four hours before the Board of Directors of such road district, and one of such persons shall be elected by lot. All ballots shall be carefully preserved, and after said count shall be placed in the ballot boxes, and said ballots shall be preserved by the Secretary of the road district for ninety days, at the end of which time, if there is no contest, all such ballots shall be destroyed.

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## SEED GRAIN LAW—MANNER OF VOTING BONDS.

Section 4640. Whenever there has been a total or partial failure of crops by reason of drouth, hail, or other misfortune, in any county of the State, it shall be lawful for the Board of County Commissioners of such county, upon being petitioned so to do, to purchase seed-grain of such kinds as may be necessary and to furnish and supply such seed-grain to the inhabitants of such county who are engaged in the occupation of farming, and who are financially unable to procure seed grain, require such seed grain in order to enable them to plant and sow crops at the next ensuing planting season. Such petition must be in writing and signed by not less than one hundred freeholders residing in such county, and must be filed with the County Clerk of such county; provided, however, that the signatures need not be appended to one paper, but each signer shall add to his signature, his post-office address and the number of his voting precinct, and all such papers when bound or fastened together and filed shall constitute and be considered as one petition.

Section 4641. Upon the filing of such petition with the County Clerk, such officer must forthwith call a special meeting of the Board of County Commissioners of such county to consider such

petition, and the date fixed for such meeting shall be not more than five days after the filing of such petition. Written notice of the calling of such special meeting shall be given each member of the Board by the County Clerk by delivering such notices personally or by registered mail; provided, however, that if any one member shall fail to attend such meeting by reason of not receiving such notice, or for any other reason, the other two members of said Board may hold such meeting; and provided, further, that notice of such meeting may be dispensed with by the unanimous consent of all of the members of such Board, which consent must be entered on the minutes of such meeting.

Section 4644. If the estimate of the Board of County Commissioners of the amount of indebtedness which the county will be required to incur in order to supply and furnish such seed-grain exceeds the sum of Ten Thousand Dollars, the Board must forthwith call a special election for the purpose of submitting to the electors of such county the question of whether or not such county shall incur an indebtedness to the amount of such estimate, or if the amount of such estimate, together with the then existing indebtedness of such county, will exceed the constitutional limit of indebtedness, then in any amount less than the amount of such estimate, and which will not, together with the then existing indebtedness of such county, exceed the constitutional limit of indebtedness, for the purpose of furnishing and supplying seed-grain to the inhabitants of such county who are engaged in the occupation of farming, and who are financially unable to procure seed-grain for planting and sowing crops at the next ensuing planting season; provided, however, that such election may be held at the same time as any other special election called for any purpose.

Section 4645. Said special election shall be called for a day not less than fifteen days nor more than thirty days after the day on which the order is made by such Board for the holding of such special election, and the Board shall give notice of the calling of such election by issuing an election proclamation, which proclamation shall be published two successive times in the newspaper published in such county having the contract for publishing official notices of such county, if such newspaper be published weekly, but if it be published daily, then eight successive insertions thereof; and copies of such proclamation shall be posted in three public places in each voting precinct in such county at least ten days before the day on which such election is to be held. Said proclamation shall clearly state the amount of indebtedness to be incurred, the purpose for which said indebtedness is to be incurred, the day on which such election is to be held, and the hours when the polls will be open, and no other notice shall be given of the calling or holding of such election.

Section 4646. Said election, except as herein otherwise provided, shall be held and conducted, and the returns thereof made and canvassed, in all respects in the manner prescribed by law in regard to the submission of questions to the electors of a county under the general election law.

Section 4647. None of the provisions of Sections 566 and 567 of this Code, shall apply to said election, but the County Clerk shall close registration for such election at 5 o'clock p. m. on the eleventh day before the day on which said election is to be held, and all

electors whose names shall appear on the registration books of such county at the time the same are closed for such election shall be entitled to vote at such special election; provided, however, that if any person whose name does not appear on the register of voters for the precinct in which such person resides shall request the judges of election for such precinct to permit him to vote at such election, such judges shall enter the name of such person upon the register of voters for such precinct upon such person taking the oath, answering the questions and complying with such other provisions of Section 554 of this Code, as are required for registration, and thereupon such person shall be permitted to vote at such election. The judges of election for each election precinct are hereby designated and appointed Deputy Registrars, within their respective election precincts, for the purpose of carrying out the provisions of this section, and shall have all the powers and perform all of the duties of the Registrar authorized and required by Chapter 122, Acts of the Fourteenth Legislative Assembly. The judges of election shall, at the same time and in the same manner the election returns of such election are delivered or mailed to the County Clerk, deliver or mail to the County Clerk all affidavits and registry cards made and filled out before them at such election. The County Clerk shall provide such election judges with a suitable number of blank affidavits and registry cards for use in their respective precincts during such election.

Section 4648. The ballots for such special election shall conform as near as possible with the ballots used at general elections, and shall have printed thereon in fair sized legible type and black ink, in one or more lines as required, the words "for incurring an indebtedness not exceeding the sum of (stating such sum), for the purpose of purchasing seed-grain to be furnished and supplied by the county to the inhabitants of the county who are engaged in the occupation of farming, and who are financially unable to procure such seed-grain and who require such seed-grain in order to enable them to plant and sow crops at the next ensuing planting season," and thereunder in one or more lines, as required, the words "against incurring an indebtedness not exceeding the sum of (stating such sum), for the purpose of purchasing seed-grain to be furnished and supplied by the county to the inhabitants of the county who are engaged in the occupation of farming, and who are financially unable to procure such seed-grain and who require such seed-grain in order to enable them to plant and sow crops at the next ensuing planting season." And there shall be before the word "For" and before the word "Against," each, a square of sufficient size to place a cross or X therein.

Section 4676. This Act and all of its provisions, shall be liberally construed so as to effectuate its purpose, and a failure to give any of the notices herein provided for, or to perform any of the acts herein required, within the exact time prescribed, shall not invalidate any election held thereunder, or any warrants or bonds issued; provided there has been a substantial compliance with the provisions of this Act except as to time.

## DUTIES OF COUNTY COMMISSIONERS RELATIVE TO ELECTIONS.

Section 4465. The Board of County Commissioners has jurisdiction and power under such limitations and restrictions as are prescribed by law:

3. To establish, abolish and change election precincts, and to appoint judges of election, canvass all election returns, declare the result, and issue certificates thereof.

Section 4515. The Board of County Commissioners must provide all poll-lists, poll books, blank returns and certificates, proclamations of elections, and other appropriate and necessary appliances for holding all elections in the county, and allow reasonable charges therefor, and for the transmission and return of the same to the proper officers.

Section 4516. Whenever, as canvassers, the Board of County Commissioners declares the result of any election held in the county, certificates must be by the Clerk of the Board issued to all persons elected to a county office or to a township or district office therein, and such other certificates must be made out and transmitted as required by the title relative to Elections.

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## GOVERNMENT OF CITIES.

Section 4961. Whenever the inhabitants of any part of a county desire to be organized into a city or town they must apply by petition in writing, signed by not less than fifty qualified electors, residents of the State and residing within the limits of the proposed incorporation, to the Board of County Commissioners of the county in which the territory is situated, which petition must describe the limits of the proposed city or town, and of the several wards thereof, which must not exceed one square mile for each five hundred inhabitants resident therein. The petitioners must annex to the petition a map of the proposed territory to be incorporated, and state the name of the city or town. The petition and map must be filed in the office of the County Clerk. Upon filing the petition, the Board of County Commissioners, at its next regular or special meeting, must appoint some suitable person to take a census of the residents of the territory to be incorporated. After taking the census the person appointed to take the same must return the list to the Board of County Commissioners, and the same must be filed by it in the County Clerk's office. No municipal corporation must be formed unless the number of inhabitants is three hundred or upwards.

Section 4962. After filing the petition and census, if there be the requisite number of inhabitants for the formation of a municipal corporation, as required in the preceding section, the County Commissioners must call an election of all the qualified electors residing in the territory described in the petition. Said election must be held at a convenient place within the territory described in the petition, to be designated by the Board, notice of which election must be given by publication in some newspaper published within the limits

of the territory to be incorporated, or if none be published therein, by posting notices in three public places within said limits. The notice must be published thirty days prior to the election, and must specify the time and place when and where the same is held, and contain a description of the boundaries of the city or town. The Board must appoint judges and clerks of election, who must qualify as required by law, and after the election they must report the result to the Board, together with the ballots cast at said election. The ballots used at the election must be "For incorporation" or "Against incorporation," and all elections must be conducted as provided in Sections 531 to 828 of this Code.

Section 4963. When the incorporation of a city or town is completed, the Board of County Commissioners must give notice for thirty days in a newspaper published within the limits of the city or town, or if none be published therein, by posting notices in six public places within the limits of the incorporation, of the time and place or places of holding the first election for offices of the corporation. At such election all the electors qualified by the general election laws of the State, and who have resided within the limits of the city or town for six months and within the limits of the ward for thirty days preceding the election, are qualified electors and may choose officers for the city or town, to hold office as prescribed in the next succeeding section.

Section 4964. At such election there must be elected in a city of the first class, a Mayor, a Police Judge, a City Attorney, a City Treasurer, a City Marshall, and two Aldermen from each ward into which the city may be divided; in a city of the second class, a Mayor, a Police Judge, a City Treasurer, a City Marshall and two Aldermen from each ward; in a town, a Mayor and two Aldermen from each ward, who hold office until the first Monday of May after the first annual election, and until their successors are elected and qualified. The persons so elected must qualify in the manner prescribed by law for county officers. The Board of County Commissioners must appoint judges and clerks of election and canvass and declare the result thereof. The election must be conducted in the manner required by law for the election of county officers.

Section 4979. When a city or town desires to be annexed to another and contiguous city or town, the Council of each thereof must appoint three Commissioners to arrange and report to the municipal authorities respectively the terms and conditions on which the annexation can be made, and if the City or Town Council of the municipal corporation to be annexed approves of the terms thereof, it must by ordinance so declare, and thereupon submit the question of annexation to the electors of the respective cities or towns. If a majority of the electors vote in favor of annexation, the Council must so declare, and a certified copy of the proceedings for annexation and of the ordinances must be filed with the Clerk of the county in which the cities or towns so annexed are situated, and when so filed the annexation is complete, and the city or town to which the annexation is made has power, in addition to other powers conferred by this title, to pass all necessary ordinances to carry into effect the terms of the annexation. Such annexations do not affect or impair any rights, obligations, or liabilities then existing, for or against either such cities or towns.

## FREE PUBLIC LIBRARIES.

Section 5049. The Council has power to establish and maintain a free public library, and for that purpose may provide by ordinance for a tax as follows: In a city or town having assessed valuation of one million dollars or more, a tax not exceeding two mills on the dollar on the property may be levied. In a city or town having an assessed valuation of less than one million dollars and more than seven hundred and fifty thousand dollars, a tax not exceeding two and one-half mills on the dollar on the property may be levied. In a city or town having an assessed valuation of less than seven hundred and fifty thousand dollars, a tax not exceeding three mills on the dollar on the property may be levied. The tax so levied and collected constitutes a fund known as the "library fund," and must be expended only for the purchase of books and other things necessary for a library, and the support and maintenance thereof; provided, that no increase over the present authorized levy shall be made until the question of such increase has first been submitted to a vote of the taxpayers affected thereby.

Section 5050. Before any such ordinance is passed the Council must submit to the qualified electors of the city or town at any election the question. At such election the ballots must have printed or written thereon the words, "Public Library, Yes;" "Public Library, No;" and in voting the elector must make a cross thus, "X," opposite the answer for which he intends to vote.

Section 5051. If the majority of the votes cast at such election is in favor of the establishment of a public library, then such library must be established as above provided. Such question may be submitted at the annual or at any special election held in such city or town, and must be submitted at any such election on the petition of one hundred or more inhabitants of such city or town.

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## OFFICERS AND ELECTIONS.

Section 4995. The officers of a city of the first class consist of one Mayor, two Aldermen from each ward, one Police Judge, one City Treasurer, who may be ex-officio Tax Collector, who must be elected by the qualified electors of the city as hereinafter provided. There may also be appointed by the Mayor, with the advice and consent of the Council, one City Attorney, one City Clerk, one Chief of Police, one Assessor, one Street Commissioner, one City Jailer, one City Surveyor, and whenever a paid fire department is established in such a city, a Chief Engineer and one or more assistant engineers, and any other officers necessary to carry out the provisions of this title. The City Council may by ordinance prescribe the duties of all city officers and fix their compensation, subject to the limitations contained in this title.

Section 4996. The officers of a city of the second and third classes consist of one Mayor, two Aldermen from each ward, one Police Judge, one City Treasurer, who may be ex-officio Tax Collector, who must be elected by the qualified electors of the city as hereinafter provided. There may also be appointed by the Mayor, with the advice and consent of the Council, one City Clerk,

who is ex-officio City Assessor, one Chief of Police, one City Attorney, and any other officer necessary to carry out the provisions of this title. The City Council may prescribe the duties of all city officers, and fix their compensation, subject to the limitations contained in this title.

Section 4997. The officers of a town consist of one Mayor and two Aldermen from each ward, who must be elected by the qualified electors of the town as hereinafter provided. There may be appointed by the Mayor, with the advice and consent of the Council, one Clerk, who may be ex-officio Assessor and a member of the Council, and one Treasurer, who may be ex-officio Tax Collector, and one Marshall, who may be ex-officio Street Commissioner, and other officers necessary to carry out the provisions of this title. The Town Council may prescribe the duties of all town officers, and fix their compensation, subject to the limitations contained in this title.

Section 5001. The first City or Town Council elected under the provisions of this title must divide the city or town into wards for election and other purposes, having regard to population so as to make them as nearly equal as possible.

Section 5002. Cities of the first class must be divided into not less than four nor more than ten wards; cities of the second class into not less than three nor more than six, and cities of the third class into not more than four wards, and towns into not less than two nor more than three wards. All changes in the number and boundaries of wards must be made by ordinance, and no new ward must be created unless there shall be within its boundaries one hundred and fifty electors, or more.

Section 5003. On the first Monday of April of each year a municipal election must be held, at which the qualified electors of each town or city must elect a Mayor, and one Alderman from each ward, to be voted for by the wards they respectively represent; the Mayor to hold office for two years, and until the qualification of his successor; and each Alderman so elected to hold office for a term of two years, and until the qualification of his successor; and also in cities of the first, second, and third class a Police Judge and a City Treasurer, who hold office for a term of two years and until the qualification of their successors.

Section 5004. No person shall be eligible to the office of Mayor unless he shall be at least twenty-five years old and a taxpaying freeholder within the limits of the city and a resident of the State for at least three years, and a resident of the city for which he may be elected Mayor two years next preceding his election to said office, and shall reside in the city or town for which he shall be elected Mayor during his term of office.

Section 5005. At the first annual election held after the organization of a city or town under this title, the electors of such city or town must elect two Aldermen from each ward, who must, at the first meeting of the Council, decide by lot their terms of office, one from each ward to hold office for a term of two years, and one for the term of one year, and until the qualification of their successors.

Section 5006. The terms of all officers elected at a municipal election are to commence on the first Monday in May after such election.

Section 5007. No person is eligible to any municipal office, elective or appointive, who is not a citizen of the United States, and who has not resided in the town or city for at least two years immediately preceding his election or appointment, and is not a qualified elector thereof.

Section 5008. No person shall be eligible to the office of Alderman unless he shall be a taxpaying freeholder within the limits of a city and a resident of the ward so electing him, for at least one year preceding such election.

Section 5009. The Council must provide by ordinance for the registration of electors in any city or town, and may prohibit any person from voting at any election unless he has been registered; but such ordinance must not be in conflict with the general law providing for the registration of electors, and must not change the qualifications of electors except as in this title provided.

Section 5010. All qualified electors of the State who have resided in the city or town for six months and in the ward for thirty days next preceding the election are entitled to vote at any municipal election.

Section 5011. The Council must appoint judges and clerks of election, and places of voting. There must be at least one place of voting in each ward, and there may be as many more as the Council by ordinance shall fix, and the elector must vote in the ward in which he resides. The election precincts in a city or town must correspond with wards, but a ward may be subdivided into several voting precincts, and when so divided the elector shall vote in the precinct in which he resides, and all elections must be conducted according to the general laws of the State. In all cities where voting machines are used, the City Council must subdivide the wards into such number of voting precincts that there will be no more than six hundred votes in each precinct.

Section 5012. On Monday following any election the Council must convene and publicly canvass the result, and issue certificates of election to each person elected by a plurality of votes. When two or more persons have received an equal and highest number of votes for any one of the offices voted for, the Council must thereafter at its first regular meeting decide by vote between the parties which is elected. If the Council from any cause fails to meet on the day named, the Mayor must call a special meeting of the Council within five days thereafter, and, in addition to the notice provided for calling special meetings, must publish the same on two successive days in some newspaper published in such city or town. If the Mayor fails to call said meeting within said five days, any three Councilmen may call it. At such special meetings all elections, appointments, or other business may be transacted that could have been on the day first herein named.

Section 5013. Each officer of a city or town must take the oath of office, and such as may be required to give bonds, file the same, duly approved, within ten days after receiving notice of his election or appointment; or, if no notice be received, then on or before the date fixed for the assumption by him of the duties of the office to which he may have been elected or appointed; but if any one, either elected or appointed to office, fails for ten days to qualify as required by law, or enter upon his duties at the time fixed by law,

then such office becomes vacant; or if any officer absents himself from the city or town continuously for ten days without the consent of the Council, or openly neglects or refuses to discharge his duties, such office may be by the Council declared vacant; or if any officer removes from the city or town, or any Alderman from his ward, such office must be by the Council declared vacant.

Section 5014. The officers elected enter upon their duties the first Monday of May succeeding their election, and officers appointed by the Mayor, with the advice and consent of the Council, within ten days after receiving notice of their appointment.

Section 5015. When any vacancy occurs in any elective office, the Council, by a majority vote of the members, may fill the same for the unexpired term and until the qualification of the successor. A vacancy in the office of Alderman must be filled from the ward in which the vacancy exists, but if the Council shall fail to fill such vacancy before the time for the next election, the qualified electors of such city or ward may nominate and elect a successor to such office. The Council, upon written charges to be entered upon their journal, after notice to the party and after trial by the Council, by vote of two-thirds of all the members elect, may remove any officer.

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## INDEBTEDNESS OF CITIES OR TOWNS—BONDS.

### Constitution—Article XIII.

Section 6. No city, town, township or school district shall be allowed to become indebted in any manner or for any purpose to an amount, including existing indebtedness, in the aggregate exceeding three per centum of the value of the taxable property therein, to be ascertained by the last assessment for the State and county taxes previous to the incurring of such indebtedness, and all bonds or obligations in excess of such amount given by, or on behalf of, such city, town, township or school district shall be void; provided, however, that the Legislative Assembly may extend the limit mentioned in this section by authorizing municipal corporations to submit the question to a vote of the taxpayers affected thereby, when such increase is necessary to construct a sewerage system or to procure a supply of water for such municipality which shall own and control said water supply and devote the revenues derived therefrom to the payment of the debt.

Section 5278. Whenever the Council of any city or town, having a corporate existence in this State, or hereafter organized under the provisions of this title, shall deem it necessary to borrow money or contract indebtedness under its powers, as set forth in Sub-division 64 of Section 5039 of this Code, or amendments thereto, the question of issuing bonds or contracting such indebtedness shall first be submitted to the qualified electors of such city or town in the manner hereinafter set forth; provided, that taxpayers only, as defined by Section 544 of this Code, shall be entitled to vote on questions concerning the construction, purchase or securing of a water plant, water system, water supply, or sewerage system.

Section 5279. Notice of such election must be published for a period of not less than three weeks in some newspaper published in the city or town, if there be one, and if not, then in the newspaper published at a point in the State nearest to the city or town, and such notice must be posted in not less than three public places in the city or town. The notice must state the time and place of holding the election, the amount and character of the bonds proposed to be issued, and the particular purpose therefor. At such election the ballots must contain the words, "Bonds, Yes;" "Bonds, No;" and in voting the elector must make a cross thus "X" opposite the answer for which he intends to vote. Such election must be conducted and canvassed and the returns made in the same manner as other city or town elections. The Council may provide by ordinance for the registration of the taxpayers or qualified electors of such city or town, and no person shall be entitled to register or vote at such election who is not a taxpayer or qualified elector as hereinbefore set forth.

Section 5195. Whenever the Council of any city or town shall deem it necessary to raise money by taxation, in excess of the levy now allowed by law, for any purpose for which said city or town is authorized to expend moneys raised by taxation in said city or town, it shall submit the question of such additional levy to the legal voters of such city or town who are taxpaying freeholders therein, either at the regular annual election held in said city or town, or at a special election called for that purpose by the Council of such city or town; provided, however, that such additional levy shall not exceed five mills.

Section 5196. Where the question of making such additional levy is so submitted, notice thereof shall be given by publication for at least thirty days prior to such election in every newspaper published in said city or town, and by posting a like notice for the same period of time in a public place in each ward of said city or town.

Section 5197. The submission of said question shall expressly provide for what purpose such additional levy is to be made, and, if authorized, the money raised for such additional levy shall be used for that specific purpose only; provided, that if any balance remain on hand after the purpose for which said levy was made has been accomplished, such balance may, by vote of the Council, be transferred to any other fund of said city or town.

Section 5198. If at any time it is desired to submit the question of additional levies for more than one purpose, such propositions shall be submitted on separate ballots, each of which ballots shall be in substantially the following form: Shall the City (or Town) Council be authorized to make a levy of (here insert the number) mill taxes in addition to the regular levy now authorized by law for the purpose of (here insert the purpose for which the additional levy is to be made.)



For additional levy.



Against additional levy.

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The voters shall mark the ballot or ballots in the same manner as other ballots are marked under the election laws of this State. The election shall be held and the votes canvassed and returned as in other city or town elections. If the majority voting on the question are in favor of such additional levy or levies, the City or Town Council shall so certify, and such additional levy or levies of taxes shall be made by the City or Town Council for that year.

Section 5199. The Council may provide by ordinance for the registration of qualified electors who are taxpaying freeholders in such city or town, and no person shall be entitled to register or vote at such election who is not such taxpaying freeholder and qualified elector.

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### BONDING FIRE DISTRICTS IN UNINCORPORATED CITIES AND TOWNS.

Section 5149. Whenever the board of county commissioners shall have established fire districts in any unincorporated town or village, said board of county commissioners shall be and is hereby constituted ex-officio a board of directors of such fire district. The board of directors of any duly established fire district in unincorporated towns or villages within this state shall, whenever a majority of the directors so decide, submit to the electors of the district the question whether the board shall be authorized to issue coupon books to a certain amount, not to exceed three per cent. of the taxable property in said district, and bearing a certain rate of interest not exceeding six per cent. per annum, and payable and redeemable at a certain time, for the purpose of purchasing fire equipment, necessary lands, erecting buildings for fire purposes, and establishing pipe-lines. No such bonds shall be issued unless a majority of all the votes cast at any such election shall be cast in favor of such issue.

Section 5150. Such election shall be held in the manner prescribed for the election of fire directors. The ballots shall be in form as follows:

"Shall bonds be issued and sold to the amount of ..... dollars and bearing not to exceed ..... per cent interest and for a period not to exceed ..... years, for the purpose of purchasing fire equipment, necessary lands, erecting buildings for fire purposes, and establishing pipe line?"

"Bonds Yes."

"Bonds No."

The elector shall prepare his ballot by crossing out thereon parts of the ballot in such a manner that the remaining part shall express his vote upon the question submitted. If a majority of the votes cast at such election are "Bonds, Yes," the Board of Directors shall issue such bonds in such form as the Board may direct and they shall bear the signature of the President of the Board of Directors, and shall be signed by the Secretary of the said fire district; and the coupons attached to the bonds shall be signed by the said President and Secretary; provided, a lithographic or engraved facsimile of the signature of the President and Secretary may be affixed to coupons only when so recited in the bonds, and the corporate seal of the fire district shall be attached to each of the bonds; and each bond so issued shall be registered by the County Treasurer in a book provided for that purpose, which shall show the number and amount of each bond and the person to whom the same is issued or sold; and the said bond shall be sold by the Fire Directors as hereinafter provided.

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## INITIATIVE AND REFERENDUM.

Article V. Section 1. The legislative authority of the State shall be vested in a Legislative Assembly, consisting of a Senate and a House of Representatives; but the people reserve to themselves power to propose laws, and to enact or reject the same at the polls, except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this constitution, independent of the Legislative Assembly; and also reserve power at their own option, to approve or reject at the polls any Act of the Legislative Assembly, except as to laws necessary for the immediate preservation of the public peace, health or safety, and except as to laws relating to appropriations of money, and except as to laws for the submission of constitutional amendments, and except as to local or special laws, as enumerated in Article V, Section 26, of this constitution. The first power reserved by the people is the Initiative, and eight per cent of the legal voters of the State shall be required to propose any measure by petition; provided, that two-fifths of the whole number of the counties of the State must each furnish as signers of said petition eight per cent of the legal voters in such county, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the Secretary of State, not less than four months before the election at which they are to be voted upon.

The second power is the Referendum, and it may be ordered either by petition signed by five per cent of the legal voters of the State; provided, that two-fifths of the whole number of the counties of the State must each furnish as signers of said petition five per cent of the legal voters in such county, or, by the Legislative Assembly as other bills are enacted.

Referendum petitions shall be filed with the Secretary of State, not later than six months after the final adjournment of the session of the Legislative Assembly which passed the bill on which the Referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people by the Legislative Assembly or by Initiative Referendum petitions.

All elections on measures referred to the people of the State shall be had at the biennal regular general election except when the Legislative Assembly, by a majority vote, shall order a special election. Any measure referred to the people shall still be in full force and effect unless such petition be signed by fifteen per cent of the legal voters of a majority of the whole number of the counties of the State, in which case the law shall be inoperative until such time as it shall be passed upon at an election, and the result has been determined and declared as provided by law. The whole number of votes cast for Governor at the regular election last preceding the filing of any petition for the Initiative and Referendum, shall be the basis on which the number of the legal petitions and orders for the Initiative and for the Referendum shall be filed with the Secretary of State; and in submitting the same to the people, he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor. The enacting clause of every law originated by the Initiative shall be as follows:

"Be It Enacted by the People of Montana:"

This section shall not be construed to deprive any member of the Legislative Assembly of the right to introduce any measure.

Section 99. The following shall be substantially the form of petition for the Referendum to the people on any Act passed by the Legislative Assembly of the State of Montana:

#### Warning.

Any person signing any name other than his own to the petition, or signing the same more than once for the same measure at one election or who is not, at the time of signing the same, a legal voter in this State, is punishable by a fine not exceeding Five Hundred Dollars (\$500), or imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment.

#### Petition for Referendum.

To the Hon....., Secretary of State for the State of Montana:

We, the undersigned citizens and legal voters of the State of Montana, respectfully order that Senate( House) Bill No....., entitled (title of Act), passed by the..... Legislative Assembly of the State of Montana, at the regular (special) session of said Legislative Assembly, shall be referred to the people of the State for their approval or rejection, at the regular, general or special election to be held on the ..... day of ..... 19....., and each for himself says: I have personally signed this petition; I am a legal voter of the State of Montana; and my residence,

postoffice address and voting precinct are correctly written after my name.

Name..... Residence.....

Postoffice address, .....

If in city, street and number.....

Voting precinct .....

(Here follow numbered lines for signatures.)

Section 100. The following shall be substantially the form of petition for any law of the State of Montana proposed by the Initiative:

**Warning.**

Any person signing any name other than his own to this petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a legal voter of this State, is punishable by a fine of not exceeding Five Hundred Dollars (\$500), or imprisonment in the penitentiary not exceeding two years, or by both such fine and imprisonment.

**Petition for Initiative.**

To the Hon....., Secretary of State for the State of Montana:

We, the undersigned legal voters of the State of Montana, respectfully demand that the following proposed law shall be submitted to the legal electors of the State of Montana, for their approval or rejection, at the regular, general, or special election to be held on the..... day of ....., 19....., and each for himself, says:

I have personally signed this petition, and my residence, post-office address and voting precinct are correctly written after my name.

Name..... Residence.....

Postoffice address .....

If in city, street and number.....

Voting precinct.....

(Numbered lines for names on each sheet.)

Every such sheet for petitioner's signatures shall be attached to a full and correct copy of the title and text of the measure so proposed by initiative petition; but such petition may be filed with the Secretary of State in numbered sections, for convenience in handling, and referendum petitions may be filed in sections in like manner.

Section 101. The County Clerk of each county in which any such petitions shall be signed shall compare the signatures of the electors signing the same with their signatures on the registration books and blanks on file in his office, for the preceding general election, and shall thereupon attach to the sheets of said petition containing such signatures his certificate to the Secretary of State, substantially as follows:

State of Montana, County of.....ss.

To the Hon....., Secretary of State  
for Montana:

I, ....., County Clerk of the county of....., hereby certify that I have compared the signatures on (number of sheets) of the Referendum (Initiative) petition, attached hereto, with the signatures of said electors as they appear on the registration books and blanks in my office; and I believe that the signatures of (names of signers), numbering (number of genuine signatures), are genuine. As to the remainder of the signatures thereon, I believe that they are not

genuine, for the reason that....., and

I further certify that.....the following names  
(.....,.....) do not appear on the registration books  
and blanks in my office.

(Signed:.....)

(Seal of Office)

County Clerk.

By:.....  
Deputy.

Every such certificate shall be prima facie evidence of the facts stated therein, and of the qualifications of the electors whose signatures are thus certified to be genuine, and the Secretary of State shall consider and count only such signatures on such petitions as shall be so certified by said County Clerks to be genuine; provide, that the Secretary of State may consider and count such of the remaining signatures as may be proved to be genuine, and that the parties so signing were legally qualified to sign such petitions, and the official certificate of a Notary Public of the county in which the signer resides shall be required as to the fact for each of such last named signatures; and the Secretary of State shall further compare and verify the official signatures and seals of all Notaries so certifying with their signatures and seals filed in his office. Such Notaries' certificates shall be substantially in the following form:

State of Montana, County of.....ss.

I, ....., a duly qualified and acting Notary Public in and for the above-named county and State, do hereby certify: that I am personally acquainted with each of the following named electors whose signatures are affixed to the annexed petition, and I know of my own knowledge that they are legal voters of the State of Montana and of the county and precincts written after their several names in the annexed petition, and that their residence and postoffice address is correctly stated therein, to-wit: (Names of such electors.)

In testimony whereof I have hereunto set my hand and official seal this ..... day of ..... 19.....

Notary Public in and for ..... county, State of Montana.

The County Clerk shall not retain in his possession any such petition, or any part thereof, for a longer period than two days for the first two hundred signatures thereon, and one additional day for each two hundred additional signatures, or fraction thereof, on the sheets presented to him, and at the expiration of such time he shall forward the same to the Secretary of State, with his certificate attached thereto, as above provided. The forms herein given are not mandatory, and if substantially followed in any petition, it shall be sufficient, disregarding clerical and merely technical errors.

Section 102. Immediately upon the filing of any such petition for the Referendum or Initiative with the Secretary of State, signed by the number of voters and filed within the time required by the constitution, he shall notify the Governor in writing of the filing of such petition, and the Governor shall forthwith issue his proclamation, announcing that such petition has been filed, with a brief statement of its tenor and effect. Said proclamation shall be published four times for four consecutive weeks in one daily or weekly paper in each county of the State of Montana.

Section 103. The Secretary of State, at the same time that he furnishes to the County Clerks of the several counties certified copies of the names of the candidates for office, shall also furnish the said County Clerks his certified copy of the titles and numbers of the various measures to be voted upon at the ensuing general or special election, and he shall use for each measure a title designated for that purpose by the Legislative Assembly, committee, or organizations presenting and filing with him the act, or petition, for the Initiative or the Referendum, or in the petition or act; provided, that such title shall in no case exceed one hundred words, and shall not resemble any such title previously filed for any measure to be submitted at that election which shall be descriptive of said measures, and he shall number such measures; and such title shall be printed on a separate official ballot in the order in which the Acts referred by the Legislative Assembly and petitioned by the people shall be filed in his office.

The first measure filed after this Act shall go into effect shall be numbered No. 6, and the next succeeding measures shall be numbered in numerals consecutively 7, 8, 9 and so on, from one election to another, no measure to be numbered with the same number of any other measure.

The affirmative and negative of each measure shall have the same number.

It shall be the duty of the several County Clerks to print said titles and numbers upon a separate official ballot in the order presented to them by the Secretary of State and the relative position required by law.

Measures proposed by the initiative shall be designated and distinguished from measures proposed by the Legislative Assembly by the heading, "Proposed Petition for Initiative."

Section 104. The manner of voting on measures submitted to the people shall be by marking the ballot with a cross in or on the diagram opposite and to the left of the proposition for which the voter desires to vote. The following is a sample ballot representing negative votes:

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For Initiative Measure No. 6.  
Relating to Duties of Sheriffs.



Against said Measure No. 6.



For Referendum Measure No. 7.  
Relating to Purchase of Insane Asylum.



Against said Measure No. 7.

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And no title on a ballot shall contain more than ten words, which shall be descriptive of the measure proposed.

Section 105. The Secretary of State shall, not later than the first Monday of the third month next before any general or special election at which any proposed law is to be submitted to the people, cause to be printed a true copy of the title and text of each measure to be submitted, with the number and form in which the question will be printed on a separate official ballot. The paper to be used for the covers of such pamphlets shall be twenty by twenty-five inches, and fifty pounds weight to the ream. The persons, committees, or duly authorized officers of any organization filing any petition for the Initiative, but not other person or organization, shall have the right to place with the Secretary of State for distribution any pamphlets advocating such measure, not later than the first Monday of the fifth month before the regular general or special election at which the measure is to be voted on; any person, committee, or organization opposing any measure may place with the Secretary of State for distribution any pamphlets they may desire, not later than the first Monday of the fourth month immediately preceding such election; as to pamphlets advocating or opposing any measure referred to the people by the Legislative Assembly, they shall be governed by the same rules of time, but they may be placed with the Secretary of State by any person, committee or organization; provided, that all such pamphlets shall be furnished to the Secretary of State in sheets of uniform size, as follows: Size of pamphlet page to be six inches wide by nine inches long; size of type page to be twenty-six ems pica wide, by forty ems pica long, set in long primer or ten-point type, and printed on sized and super-

calendered paper, twenty-five by thirty-eight inches, weighing fifty pounds to the ream. All such pamphlets shall be furnished to the Secretary of State at the sole expense of the persons interested, and without cost to the State. In no case shall the Secretary of State be obliged to receive any such pamphlets unless a sufficient number is furnished to supply one to every legal voter in the State, but in such case he shall forthwith notify the persons offering the same of the number required. The Secretary of State shall cause one copy of each of said pamphlets to be bound in with his copy of the measures to be submitted as herein provided. The title-page of every such pamphlet shall show the official numbers for and against, and the ballot title of the measure to which it refers, and whether it is intended to favor or oppose such measure, and by whom it is issued. The Secretary of State shall distribute to each County Clerk, before the second Monday in the third month next preceding such regular general election, a sufficient number of said bound pamphlets to furnish one copy to every voter in his county. And each County Clerk shall be required to mail to each registered voter in each of the several counties in the State at least one copy of the same, within thirty days from the date of his receipt of the same from the Secretary of State, the mailing of said bound pamphlets shall be a part of the official duty of the County Clerk of each of the several counties and his official compensation shall be full compensation for this additional service. The Secretary of State shall not be obliged to receive or distribute any pamphlets advocating or opposing any measure unless the same shall be filed with him within the time herein provided. (Act approved March 2, 1907, Sec. 7; Tenth Session, Chap. 62.)

Section 106. The votes on measures and questions shall be counted, canvassed and returned by the regular boards of judges, clerks, and officers as votes for candidates are counted, canvassed and returned, and the abstract made by the several County Clerks of votes on measures shall be returned to the Secretary of State on separate abstract sheets in the manner provided by Sections 801 and 802 of this Code, for abstracts of votes for State officers. It shall be the duty of the State Board of Canvassers to proceed within thirty days after the election, and sooner if the returns be all received, to canvass the votes given for each measure, and the Governor shall forthwith issue his proclamation, which shall be published in two daily newspapers printed at the capital, giving the whole number of votes cast in the State for and against each measure and question, and declaring such measures as are approved by a majority of those voting thereon to be in full force and effect as the law of the State of Montana, from the date of said proclamation, designating such measures by their titles.

Section 107. Every person who is a qualified elector of the State of Montana may sign a petition for the Referendum or for the Initiative. Any person signing any name other than his own to such petition, or signing the same more than once for the same measure at one election, or who is not, at the time of signing the same, a legal voter of this State, or any officer or any person wilfully violating any provision of this statute, shall, upon conviction thereof, be punished by a fine not exceeding Five Hundred Dollars, or by imprisonment in the penitentiary not exceeding two years, or by both such fine

and imprisonment in the discretion of the court before which such conviction be had.

Section 108. A bill passed by the Legislative Assembly and referred to popular vote at the next general election or at a special election, shall not be in effect until it is approved at such general or special election by a majority of those voting for and against it.

(Note—See also title, "Initiative and Referendum in Government of Cities and Towns.")

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## INITIATIVE AND REFERENDUM IN CITIES AND TOWNS.

Section 5058. Ordinances may be proposed by legal voters of any city or town in this State, in the manner provided in this Act, eight per cent of the legal voters of any city or town may propose to the City or Town Council an ordinance on any subject within the legislative jurisdiction and powers of such City or Town Council, or an ordinance amending or repealing any prior ordinance or ordinances. Such petition shall be filed with the City or Town Clerk. It shall be the duty of the City or Town Clerk to present the same to the Council at its first meeting next following the filing of the petition. The Council may, within sixty days after the presentation of the petition to the Council, pass an ordinance similar to that proposed in the petition, either in exact terms or with such changes, amendments, or modifications as the Council may decide upon. If the ordinance proposed by the petition be passed without change, it shall not be submitted to the people, unless a petition for Referendum demanding such submission shall be filed under the provisions of this Act. If the Council shall have made any change in the proposed ordinance, a suit may be brought in the district court in and for the county in which the city or town is situated, to determine whether or not the change is material. Such suit may be brought in the name of any one or more of the petitioners.

The city shall be made the party defendant. Any elector of the city or town may appear in such suit in person or by counsel on the hearing thereof, but the court shall have the power to limit the number of counsel who shall be heard on either side, and the time to be allowed for arguments. It shall only be necessary to state in the complaint that a petition for an ordinance was filed in pursuance of this Act; that the City Council passed an ordinance on the subject different from that proposed in the petition, and that the plaintiff desires a construction of the ordinance so passed to determine whether or not it differs materially from that proposed. The petition and the ordinance proposed thereby, and the ordinance actually passed, may be set out in the complaint, or copies thereof annexed to the complaint. The names to the petition need not be set out. Such cases shall be advanced and brought to hearing as speedily as possible, and have precedence over other cases, except criminal and taxation cases. The court shall have jurisdiction in such cases to determine whether or not the change made by the City Council is material, and also whether the petition was regular in form or sub-

stance, and shall have power to decide, if the fact be put in issue by the defendant, whether or not the petition was signed by a sufficient number of voters and was regular in form. If the court shall decide that the change was material, and that the petition was regular in form and signed by a sufficient number of legal voters, then the ordinance proposed by the petition shall be submitted to the people as provided in this Act. If the court shall decide that the ordinance passed by the Council was not materially different from that proposed in the petition, or that the petition was not regular in form, or not signed by a sufficient number of legal voters, the ordinance shall not be submitted to the people. If the court shall decide that the changes made by the Council were material, but that the petition was irregular for some reason or not properly or sufficiently signed, a new petition, regular in form, may be presented by the required number of legal voters, asking the Council to submit such ordinance to the people, and thereupon the same shall be so submitted as provided in this Act. If the Council shall not, within sixty days, pass an ordinance on the subject of the ordinance proposed in the petition, then the ordinance proposed by the petition shall be submitted to the people. Before submitting such ordinance to the people, the Mayor or City or Town Council may direct that a suit be brought in the district court in and for the county, in the name of the city or town, to determine whether the petition and ordinance are regular in form and whether the ordinance so proposed would be valid and constitutional. The complaint shall name as defendants not less than ten nor more than twenty of the petitioners. In addition to the names of such defendants, in the caption of the complaint, there shall be added the words, "and all petitioners whose names appear on the petition

for an ordinance filed on the ..... day of .....

in the year .....," stating the date of the filing. The summons shall be similarly directed and shall be served on the defendants named therein, and in addition thereto shall be published at least once at the expense of the city, in at least one newspaper published in the city or town. In all suits brought under this section the decision of the district court shall be final, except in cases where it shall decide that the proposed ordinance would be unconstitutional or invalid as being beyond the powers of the City or Town Council, and in such excepted cases the petitioners or any of them, may appeal to the Supreme Court as in other cases, but shall not be required to give any bond for costs. The decision of the district court holding such ordinance valid or constitutional shall not, however, prevent the question being raised subsequently, if the ordinance shall be passed and go into effect, by any one affected by the ordinance. No costs shall be allowed to either side in suits or appeals under this section.

Section 5059. Any ordinance proposed by petition as aforesaid, which shall be entitled to be submitted to the people, shall be voted on at the next regular election to be held in the city or town, unless the petition therefor shall ask that the same be submitted at a special election and such petition be signed by not less than fifteen per cent. of the electors qualified to vote at the last preceding municipal election.

Section 5060. No ordinance or resolution passed by the Council of any city or town shall become effective until thirty days after its passage, except general appropriation ordinances providing for the ordinary and current expenses of the city or town, excepting also emergency measures, and in case of emergency measures the emergency must be expressed in the preamble or in the body of the measure, and the measure must receive a two-thirds vote of all the members elected.

In emergency ordinances the resolution shall include only such measures as are immediately necessary for the preservation of peace, health, and safety, and shall not include a franchise or license to a corporation or individual, nor any provision for the sale of real estate, nor any lease or letting of any property for a period exceeding one year, nor the purchase or sale of personal property exceeding five thousand dollars in value.

Section 5061. During the thirty days following the passage of any ordinance or resolution, five per cent. of the qualified electors of the city or town may, by petition addressed to the Council and filed with the Clerk of the city or town, demand that such ordinance or resolution, or any part or parts thereof, shall be submitted to the electors of the city or town.

Section 5062. Any measure on which a referendum is demanded under the provisions of this Act shall be submitted to the electors of the city or town at the next municipal election; provided, the petition or petitions shall have been filed with the City Clerk at least thirty days before such election. If such petition or petitions be signed by not less than fifteen per cent. of the qualified electors of the city or town, the measures shall be submitted at a special election to be held for the purpose.

Section 5063. The City or Town Council may in any case order a special election on a measure proposed by the initiative, or when a referendum is demanded, or upon any ordinance passed by the City or town Council, and may likewise submit to the electors at a general election any ordinance passed by the City or Town Council.

Section 5064. Whenever a measure is ready for submission to the electors, the Clerk of the city or town shall, in writing, notify the Mayor thereof, who forthwith shall issue a proclamation setting forth the measure and the date of the election or vote to be had thereon. Said proclamation shall be published four days in four consecutive weeks in each daily newspaper in the municipality, if there be such, otherwise in the weekly newspapers published in the city or town. In case there is no weekly newspaper published, the proclamation and the measure shall be posted conspicuously throughout the city or town.

Section 5065. The question to be balloted upon by the electors shall be printed on the initiative or referendum ballot, and the form shall be that prescribed by law for questions submitted at State elections. The referendum or initiative ballots shall be counted, canvassed, and returned by the regular board of judges, clerks and officers, as votes for candidates for office are counted, canvassed and returned. The returns for the question submitted by the voters of the municipality shall be on separate sheets, and returned to the Clerk of the municipality. The return shall be canvassed in the same manner as the returns of regular elections for municipal

officers. The Mayor of the municipality shall issue his proclamation as soon as the result of the final canvass is known, giving the whole number of votes cast in the municipality for and against such measure, and it shall be published in like manner as other proclamations herein provided for. A measure accepted by the electors shall take effect five days after the vote is officially announced.

Section 5066. The qualifications for voting on questions submitted to the electors, under the provisions hereof, shall be the same as those required for voting at municipal elections in the city or town at elections for Mayor or Aldermen thereof. And where, by the laws of the State, or by ordinance of the city or town made in pursuance thereof electors are required to register in order to be qualified to vote at municipal elections, the registration book or books shall be prima facie evidence of the right to sign any petition herein provided for.

Section 5067. The form of petitions and the proceedings under this Act shall conform as nearly as possible, with the necessary changes as to details, to the provisions of the laws of the State relating to the initiative and referendum, and be regulated by such laws except as otherwise provided in this Act. The City Clerk shall perform the duties which under the State laws, devolve upon the County Clerk and Secretary of State, insofar as the provisions relating thereto may be made to apply to the case of the City or Town Clerk; but it shall not be necessary to mail or distribute copies of the petitions or measures to the electors of the city or town.

Section 5068. The provisions of this Act regarding the referendum shall not apply to ordinances which are required by any law of the State to be submitted to the voters or the electors or taxpayers of any city or town.

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## COMMISSION FORM OF GOVERNMENT FOR CITIES.

Section 5366. Any city may abandon its organization and reorganize under the provisions of this Act by proceeding as hereinafter provided.

Section 5367. Upon a petition being filed with the City Council, signed by not less than twenty-five per cent. of the qualified electors of such city registered for the last preceding general city election, praying that the question or reorganization under this Act be submitted to the qualified electors of such city, said City Council shall thereupon, and with thirty days thereafter, order a special election to be held, at which election the question of reorganization of such city, under the provisions of this Act, shall be submitted to the qualified electors of such city.

Such order of the City Council shall specify therein the time when such election shall be held, which must be within ninety days from the date of the filing of such petition.

Section 5368. Upon the City Council ordering such special election to be held, the Mayor of such city shall issue a proclamation setting forth the purpose for which such special election is called, and the date of holding such special election, which proclamation

shall be published for ten consecutive days in each daily newspaper published in said city, if there be such, otherwise once a week for two consecutive weeks in each weekly newspaper published therein, and such proclamation shall also be posted in at least five public places within such city.

Section 5369. At such election the ballots to be used shall be printed upon plain, white paper, and shall be headed "Special election for the purpose of submitting to the qualified electors of the City of..... the question of reorganization of the City of..... under Chapter (name of chapter containing this Act) of the Acts of the Twelfth Legislative Assembly," and shall be substantially in the following form:

"For reorganization of the City of.....under Chapter (name of chapter containing this Act) of the Acts Public Places in said municipality."

"Against reorganization of the City of.....under Chapter (name of chapter containing this Act) of the Acts of the Twelfth Legislative Assembly."

Such election shall be conducted and vote canvassed and result declared in the same manner as provided by law in respect to other city elections.

Section 5370. If such proposition is adopted, the Mayor shall transmit to the Governor, to the Secretary of State, and to the County Clerk and Recorder each, a certificate stating that such proposition was adopted.

If such proposition shall not be adopted at such special election, such proposition shall not again be submitted to the electors of such city within a period of two years thereafter.

Section 5371. If a majority of the votes cast at such election shall be in favor of such proposition, the City Council must, at its first regular meeting held thereafter, order a special election to be held for the purpose of electing a Mayor and the number of Councilmen to which such city shall be entitled, which order shall specify the time of holding such election, which must be within ninety days after the making of said order, and the Mayor shall thereupon issue a proclamation setting forth the purposes for which such special election is called and the day of holding the same, which proclamation shall be published for ten successive days in each daily newspaper published in such city, if there be such, otherwise once a week for two consecutive weeks in each weekly newspaper published therein, and a copy thereof shall also be posted at each voting place within said city, and also in at least ten of the most public places in said city.

Section 5372. Such election shall be conducted, the vote canvassed, and result declared in the same manner as provided by law in respect to other city elections.

Section 5373. All laws governing cities of the first, second, and third classes, and not inconsistent with the provisions of this Act, shall apply to and govern cities organized under this Act. All by-laws, ordinances, and resolutions lawfully passed and in force in any such city under its former organization, shall remain in force until

altered or repealed by the Council elected under the provisions of this Act. The territorial limits of such city shall remain the same as under the former organization and all rights and property of every description, which were vested in any such city under its former organization, shall vest in the same under the organization herein contemplated, and no right or liability either in favor of or against it, existing at the time, and no suit or prosecution of any kind shall be affected by such change, unless otherwise provided for in this Act.

Section 5374. In every city of the third class there shall be a Mayor and two Councilmen; in every city of the second class, a Mayor and two Councilmen; in every city of the first class having a population of less than twenty-five thousand, a Mayor and two Councilmen, and in every city of the first class having a population of twenty-five thousand or more, a Mayor and four Councilmen, and the Mayor and all Councilmen shall, be elected at large.

If any vacancy shall occur in the office of Mayor or Councilman, the remaining members of the Council shall by a majority vote, elect a person to fill such vacancy until the next general city election, and if, in filling such vacancy, a tie vote should occur, then the person to fill said vacancy shall be determined by lot in such manner as said Council may provide.

Section 5375. The Mayor and Councilmen elected at such special election shall qualify, and their terms of office shall begin on the first Monday after their election, and the terms of office of the Mayor and Councilmen or Aldermen in such city in office at the beginning of the term of office of the Councilmen first elected under the provisions of this Act shall then cease and determine, the terms of office of all their appointed officers in force in such city, except as hereinafter provided, shall cease and determine as soon as the Council shall by resolution declare.

Section 5376. The terms of office of the Mayor and all Councilmen elected at such special election shall expire on the first Monday in May of the year following their election. At the first regular city election held in the year in which the terms of office of the Mayor and Councilmen elected at such special election shall expire, a Mayor and two Councilmen shall be elected in cities having a population of less than twenty-five thousand. The Mayor elected at such first general city election shall hold office for two years; one of the Councilmen elected at such first general city election shall hold office for one year; and the other of such Councilmen elected at such first general city election shall hold office for two years, beginning with the first Monday in May of that year; a Mayor and four Councilmen shall be elected in cities having a population of twenty-five thousand or more; and the Mayor elected at such first general city election shall hold office for two years. Two of the Councilmen elected at such first general city election shall hold office for one year, and the other two of the Councilmen elected at such first general city election shall hold office for two years, beginning with the first Monday in May of that year; and the terms of office of the Mayor and all Councilmen thereafter elected shall be two years.

The Councilmen elected at the first general city election shall decide by lot in such manner as they may select which thereof

shall hold the office of Councilman the term of which expires one year thereafter, and which thereof shall hold the office of Councilman the term of which expires two years thereafter.

Section 5377. Candidates to be voted for at all general municipal elections at which a Mayor or Councilman are to be elected under the provisions of this Act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those selected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the second Monday preceding the municipal election. The judges of election appointed for the municipal election shall be the judges of the primary election, and it shall be held at the same places, as far as possible, and the polls shall be opened and closed at the same hours, with the same clerks as are required for said general municipal election. Any qualified elector of said city who is the owner of any real estate situated therein, desiring to become a candidate for Mayor or Councilman, shall, at least ten days prior to said primary election, file with the City Clerk a statement of such candidacy in substantially the following form:

State of Montana, County of.....ss.

I, ....., being first duly sworn, say, that I reside at....., street....., city of....., county of....., State of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of (Mayor or Councilman) to be voted upon at the primary election to be held on the..... Monday of....., 19....., and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

Signed.....

Subscribed and sworn to (or affirmed) before me by..... on this..... day of....., 19.....

Signed.....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

#### Petition Accompanying Nominating Statement.

The undersigned, duly qualified electors of the city of....., and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination for (name of office) at

the primary election to be held in such city on the.....  
Monday of ....., 19..... We further state  
that we know him to be a qualified elector of said city and a man  
of good moral character, and qualified, in our judgment, for the duties  
of such office.

Names of Qualifying Electors. No. Street.

Each signer of a nomination paper shall sign but one such nomination paper for the same office, except where more than one officer is to be elected to the same office, in which case he may sign as many nomination papers as there are officers to be elected, and only one candidate shall be petitioned for or nominated in the same nomination papers.

Immediately upon the expiration of the time of filing the statements and petitions for candidates, the said City Clerk shall cause to be published for three consecutive days in all the daily newspapers published in the city, in proper form, the names of the persons as they are to appear, upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspapers that may be published in said city; and the said Clerk shall thereupon cause the primary ballots to be printed, authenticated with a facsimile of his signature. Upon the said ballots the names of the candidates for Mayor, arranged alphabetically, shall first be placed, with a square at the left of each name, and immediately below the words, "Vote for one." Following these names, likewise arranged in alphabetical order, shall appear the names of the candidates for Councilman, with a square at the left of each name, and below the names of such candidates shall appear the words, "Vote for (giving the number of persons to be voted for.)" The ballots shall be printed upon plain, substantial, white paper, and shall be headed:

Candidates for Nomination for Mayor and Council-

men of the City of ..... at the

## Primary Election;

but shall have no party designation or mark whatever. The ballots shall be in substantially the following form:

(Place a cross in the square preceding the names of the parties you favor as candidates for the respective positions.)

**Official Primary Ballot.**

Candidates for Nomination for Mayor and Councilmen of the City of ..... at the Primary Election.

For Mayor.

(Name of Candidate.)

(Vote for One.)

For Councilman.

(Name of Candidate.)

(Vote for ..... ) (giving number to be voted for.)

Official Ballot Attest:

Signature.....

City Clerk.

Having caused said ballots to be printed, the said City Clerk shall cause to be delivered at each polling place a number of said ballots equal to twice the number of such voters registered in such polling place at the last general municipal election. The persons who are qualified to vote at the general election shall be qualified to vote at such primary election, and any person offering to vote may be orally challenged by any elector of the city upon any or all of the grounds set forth and specified in Section 706 of this Code, and the provisions of Sections 707 to 714 inclusive of this Code, shall apply to all challenges made at such election. Judges of election shall immediately upon the closing of the polls count the ballots and ascertain the number of votes cast in such precinct for each of the candidates for Mayor and Councilman, and make return thereof to the City Clerk upon the proper blanks to be furnished by the City Clerk within six hours of the closing of the polls. On the day following the primary election the City Clerk shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers in said city, at least once, the result thereof. Said canvass by the City Clerk shall be publicly made. If a Mayor is to be elected at such municipal election, the two persons receiving the highest number of votes shall be the candidates for Mayor. If one Councilman is to be elected at such municipal election, the two persons receiving the highest number of votes shall be the candidates for Councilmen. If two Councilmen are to be elected at such general municipal election, the four persons receiving the highest number of votes shall be the candidates for Councilmen, and if three Councilmen are to be elected at such municipal election, the six persons receiving the highest number of votes shall be candidates for Councilmen, and if four Councilmen are to be elected at such general municipal election, the eight persons receiving the highest number of votes shall be candidates for Councilmen at such general election, and these shall be the only candidates for Mayor and Councilmen at such general election.

All electors of cities under this Act who, by ordinances governing cities incorporated under the general municipal incorporation law, or by the charter, would be entitled to vote for the election of officers at any general municipal election in such cities, shall be qualified to vote at all elections under this Act; and the ballots to be used at such general municipal election shall be in the same general form as for such primary elections so far as applicable, and in all elections, in such cities the election precincts, voting places, method of conducting the election, canvassing of votes and announcing the results shall be the same as by law provided for the election of officers in such cities so far as the same are applicable and not inconsistent with the provisions of this Act.

Every person who has been declared elected Mayor or Councilman shall within ten days thereafter, take and file with the City Clerk his oath of office in the form and manner provided by law, and shall execute and give sufficient bond to the municipal corporation in the sum of Ten Thousand Dollars, conditioned for the faithful performance of the duties of his office, which bond shall be approved by the Judge of the District Court of the county in which such city is situated, and filed with the Clerk and Recorder of the county in which such city is situated.

Section 5378. Any person who shall agree to perform any services in the interest of any candidate for any office provided in this Act, in consideration of any money or other valuable thing for such services performed in the interest of any candidate, shall be punished by a fine not exceeding Three Hundred Dollars, or be imprisoned in the county jail not exceeding thirty days.

Section 5379. Any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided in this Act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person who agrees, by promise or written statement, that he will do, or will not do, any particular act or acts, for the purpose of influencing the vote of any elector or electors at any election provided in this Act; any person making false answer to any of the provisions of this Act relative to his qualifications to vote at such election; any person wilfully voting or offering to vote at such election who has not been a resident of this State for one year next preceding said election, or who is not twenty-one years of age, or is not a citizen of the United States, or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding or abetting any violation hereof, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined a sum of not less than One Hundred Dollars nor more than Five Hundred Dollars, and be imprisoned in the county jail not less than ten nor more than ninety days.

(Section 5380-5387, inclusive, bearing on Powers and Duties of Council, omitted.)

Section 5388. Every ordinance or resolution appropriating money, or ordering any street improvement or sewer, or making or authorizing the making of any contract, or granting any franchise or right to occupy or use the streets, highways, bridges, or public places in the city for any purpose, shall be complete in the form in which

it is finally passed, and remain on file with the City Clerk for public inspection at least one week before the final passage or adoption thereof. No franchise or right to occupy or use the streets, highways, bridges, or public places in any such city shall be granted, renewed, or extended, except by ordinance, and every franchise or grant for interurban or street railways, gas, or water-works, electric light, or power plant, heating plant, telegraph or telephone systems, or other public service utilities, or renewal or extension of any such franchise or grant within such city, must be authorized or approved by a majority of the electors voting thereon at a general or special election, as provided in Sections 5075, 5076, 5077 of this Code.

(Sections 5389-5393, inclusive, relating to Powers and Duties of Council, omitted.)

Section 5394. The holder of any elective office may be removed at any time by the electors qualified to vote for a successor of such incumbent. The procedure to effect the removal of an incumbent of an elective office shall be as follows: A petition signed by twenty-five per cent. of all qualified electors registered for the last preceding general municipal election, demanding an election of a successor of the person sought to be removed, shall be filed with the City Clerk, which petition shall contain a general statement of the grounds for which the removal is sought. The signatures to the petition need not be appended to one paper, but each signer shall add to his signature his place of residence, giving the street and number. One of the signers of such paper shall make oath before an officer competent to administer oaths that the statements therein are true as he believes, and that each signature to the paper appended is the genuine signature of the person whose name it purports to be. Within ten days from the date of filing such petition the City Clerk shall examine, and from the voters' register ascertain whether or not said petition is signed by the requisite number of qualified electors, and, if necessary, the Council shall allow him extra help for that purpose; and he shall attach to said petition his certificate, showing the result of said examination. If, by the Clerk's certificate, the petition is shown to be insufficient, it may be amended within ten days from the date of said certificate. The Clerk shall, within ten days after such amendment, make like examination of the amended petition, and if his certificate shall show the same to be insufficient, it shall be returned to the person filing the same; without prejudice, however, to the filing of a new petition to the same effect. If the petition shall be deemed to be sufficient, the Clerk shall submit the same to the Council without delay. If the petition shall be found to be sufficient, the Council shall order and fix a date for holding said election, not less than seventy days or more than eighty days from the date of the Clerk's certificate to the Council that a sufficient petition is filed.

The Council shall make, or cause to be made, publication of notice and all arrangements for holding such election, and the same shall be conducted, returned, and the result thereof declared, in all respects as are other elections.

As far as applicable, except as otherwise herein provided, nominations hereunder shall be made without the intervention of a primary election by filing with the Clerk, at least ten days prior

to said special election a statement of candidacy accompanied by a petition signed by electors entitled to a vote at said special election, equal in number to at least ten per cent. of the entire number of persons registered to vote at the last preceding general municipal election, which said statement of candidacy and petition shall be substantially in the form set out in Section 5377 of this Code, so far as the same is applicable, substituting the word "special" for the word "primary" in such statement and petition, and stating therein that such person is a candidate for election instead of nomination. The ballot for such special election shall be in substantially the following form:

## Official Ballot.

Special election for the balance of the unexpired term of  
..... as ..... for .....

(Vote for one only.)

(Name of candidates.)

Name of present incumbent.

Official ballot attest.

(Signature) .....

City Clerk.

The successor of any officer so removed shall hold office during the unexpired term of his predecessor. Any person sought to be removed may be a candidate to succeed himself, and unless he requests otherwise in writing, the Clerk shall place his name on the official ballot without nomination. In any such removal election, the candidate receiving the highest number of votes, shall be declared elected. At such election, if some other person than the incumbent receives the highest number of votes the incumbent shall thereupon be deemed removed from the office upon the qualification of his successor. In case the party who receives the highest number of votes should fail to qualify within ten days after receiving notification of the election, the office shall be deemed vacant. If the incumbent receives the highest number of votes, he shall continue in office. The said method of removal shall be cumulative and additional to the methods heretofore provided by law.

Section 5395. Any proposed ordinance may be submitted to the Council by petition signed by electors of the city equal in number to the percentage hereinafter required. The signature, verification, inspection, certification, amendment, and submission of such petition shall be the same as provided for petition under the preceding Section. If the petition accompanying the proposed ordinance be signed by electors equal in number to twenty-five per centum of the entire number of persons registered to vote at the last preceding general election, and contains a request that the said ordinance be submitted to a vote of the people, if not passed by the Council, such Council shall either:

(a) Pass each ordinance without alteration within twenty days after the attachment of the Clerk's certificate to the accompanying petition; or,

(b) Forthwith, after the Clerk shall attach to the petition accompanying such ordinance his certificate of sufficiency, the Council

shall call a special election, unless a general municipal election is fixed by law, within thirty days thereafter, and at such special or general municipal election, if one is so fixed, such ordinance shall be submitted to the vote of the electors of such city.

But if the petition is signed by not less than ten nor more than twenty-five per centum of the electors, as above defined, then the Council shall, within twenty days, pass said ordinance without change, or submit the same at the next general city election occurring after the Clerk's certificate of sufficiency is attached to said petition.

The ballots used when voting upon said ordinance shall contain these words: "For the ordinance" (stating the nature of the proposed ordinance), and "Against the ordinance" (stating the nature of the proposed ordinance.) If a majority of the qualified electors voting on the proposed ordinance shall vote in favor thereof, such ordinance shall there upon become a valid and binding ordinance of the city; and any ordinance proposed by the petition of which shall be adopted by a vote of the people cannot be repealed or amended except by a vote of the people.

Any number of proposed ordinances may be voted upon at the same election, in accordance with the provisions of this section; but there shall not be more than one special election in any period of six months for such purposes.

The Council may submit a proposition for the repeal of any such ordinance, or for amendments thereto, to be voted upon at any succeeding general election; and should such proposition so submitted receive a majority of the votes cast thereon at such election, such ordinance shall thereby be repealed or amended accordingly. Whenever any ordinance or proposition is required by this Act to be submitted to the voters of the city at any election, the City Clerk shall cause such ordinance or proposition to be published once in each of the daily newspapers published in such city, and if there be none, then one time in each weekly newspaper published therein; such publication to be not more than twenty nor less than five days before the submission of such proposition or ordinance to be voted on.

Section 5396. No ordinance passed by the Council, except when otherwise required by the general laws of this State or the provisions of this Act, except an ordinance for the immediate preservation of the public peace, health, or safety, which contains a statement of its urgency, and is passed by a two-thirds vote of the Council, shall go into effect before ten days from the time of its final passage; and if, during said ten days, a petition signed by electors of the city equal in number to at least twenty-five per centum of the entire number of persons registered to vote at the last preceding general municipal election, protesting against the passage of such ordinance, be presented to the Council, the same shall thereupon be suspended from going into operation, and it shall be the duty of the Council to reconsider such ordinance; and if the same is not entirely repealed, the Council shall submit the ordinance, as is provided by Subdivision (b) of the preceding Section, to the vote of the electors of the city, either at a general election or at a special municipal election to be called for that purpose; and such ordinance

shall not go into effect or become operative unless a majority of the qualified electors voting on the same vote in favor thereof. Said petition shall be in all respects in accordance with the provisions of the preceding Sections, except as to the percentage of signers, and be examined and certified to by the Clerk in all respects as therein provided.

Section 5397. Any city which shall have operated for more than one year under the provisions of this Act may abandon such organization hereunder and accept the provisions of the general law of the State then applicable to cities of its population.

Upon the petition of not less than twenty-five per centum of the electors of such city registered for the last preceding general election, a special election shall be called, at which the following proposition only shall be submitted:

"Shall the city of (name the city) abandon its organization under Chapter 57 of the Acts of the Twelfth Legislative Assembly and become a city under the general law governing cities of like population; or if formerly organized under special charter shall resume said special charter?"

If the majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding biennial election shall be those then prescribed by the general law of the State for cities of like population, and upon the qualification of such officers such city shall become a city under such general law of the State, but such change shall not in any manner or degree affect the property, rights or liabilities of any nature of such city, but shall merely extend to each change in its form of government.

The sufficiency of such petition shall be determined, the election ordered and conducted, and the results declared generally as provided for by Section 5394 of this Code, insofar as the provisions thereof are applicable; or if now organized under special charter, may resume said special charter. Whenever the form of government of any city is determined by a vote of the people under the provisions of this section, the same question shall not be submitted again for a period of two years, and any ordinance adopted by a vote of the people shall not be repealed or the same question submitted for a period of two years.

Section 5398. Petition provided for in this Act shall be signed by none but legal voters of the city. Each petition shall contain, in addition to the names of the petitioners, the street and house number in which the petitioner resides, his age, and length of residence in the city. It shall also be accompanied by the affidavit of one or more legal voters of the city, stating that the signers thereof were, at the time of signing, legal voters of said city, and the number of signers at the time the affidavit was made.

Section 5399. All Acts and parts of Acts, and all laws not inconsistent with any of the provisions of this Act, now in force or hereafter enacted, relative to municipal corporations, are hereby continued in full force and effect, and shall be considered and construed as not repealed by this Act, except insofar as the same may be in conflict or inconsistent with the provisions of this Act.

## COMMISSION-MANAGER FORM OF GOVERNMENT FOR CITIES AND TOWNS.

Section 5400. Any municipality may abandon its organization and reorganize under the provisions of this Act, by proceeding as hereinafter provided.

Section 5401. Upon a petition being filed with the City or Town Council, signed by not less than twenty-five per cent of the qualified electors of such municipality registered for the last preceding general municipal election, praying that the question of reorganization under this Act be submitted to the qualified electors of such municipality, said City or Town Council shall thereupon, and within thirty days thereafter, order a special election to be held, at which election the question of reorganization of such municipality under the provisions of this Act shall be submitted to the qualified electors of such municipality.

Such order of the City or Town Council shall specify therein the time when such election shall be held, which must be within ninety days from the date of filing of such petition.

Section 5402. Upon the City or Town Council ordering such special election to be held, the Mayor of such municipality shall issue a proclamation setting forth the purpose for which such special election is held and the date of holding such special election, which proclamation shall be published for ten consecutive days in each daily newspaper published in said municipality, if there be such, otherwise once a week for two consecutive weeks in each weekly newspaper published therein, and such proclamation shall also be posted in at least five public places within such municipality.

Section 5403. At such election the ballots to be used shall be printed on plain white paper, and shall be headed "Special election for the purpose of submitting to the qualified electors of (city, town) of (name of city or town) under Chapter (name of chapter containing this Act) of the Acts of the Fifteenth Legislative Assembly," and shall be substantially in the following form:

For reorganization of the (city, town) of (name of city or town) under Chapter (name of chapter containing this Act) of the Acts of the Fifteenth Legislative Assembly.

Against reorganization of the (city, town) of (name of city or town) under Chapter (name of chapter containing this Act) of the Acts of the Fifteenth Legislative Assembly.

Such election shall be conducted, and vote canvassed and result declared in the same manner as provided by law in respect to other municipal elections.

Section 5404. If such proposition is adopted, the Mayor shall transmit to the Governor, to the Secretary of State, and to the County Clerk and Recorder, each, a certificate stating that such proposition was adopted.

If such proposition shall not be adopted at such special election, such proposition shall not again be submitted to the electors of such municipality within a period of two years thereafter.

Section 5405. If the majority of the votes cast at such election shall be in favor of such proposition, the City or Town Council must

hold a meeting within two weeks thereafter, and at such meeting order a special election to be held for the purpose of electing the number of Commissioners to which such municipality shall be entitled, which order shall specify the time of holding such election which must be within ninety days after the making of such order, and the Mayor shall thereupon issue a proclamation setting forth the purpose for which such special election is held and the day of holding the same, which proclamation shall be published for ten successive days in each daily newspaper published in such municipality, if there be such, otherwise for two successive weeks in each weekly newspaper published therein, and a copy thereof shall also be posted at each voting place within said municipality, and also in five of the most public places in said municipality.

Section 5406. Such election shall be conducted, the vote canvassed, and the result declared in the same manner as provided by law in respect to other municipal elections.

Section 5407. All laws governing municipalities of like population, and not inconsistent with the provisions of this Act, shall apply to and govern municipalities organized under this Act. All by-laws, ordinances, and resolutions lawfully passed and in force in any such municipality under its organization, not in conflict herewith, shall remain in force until altered or repealed by the Commission under the provisions of this Act. The territorial limits of such municipality shall remain the same as under the former organization, and all rights and property of every description which were vested in any such municipality under its former organization shall vest in the same under the organization herein contemplated, and no right or liability either in favor of or against it, existing at the time, and no suit or prosecution of any kind, shall be affected by such change, unless otherwise provided for in this Act.

Section 5408. Whenever the inhabitants of any community or group of communities in any county, whether separately incorporated in whole or in part, or unincorporated, which are situated in such proximity or location with reference to each other as to make single municipal control necessary or desirable, shall desire to be organized into or annexed to an incorporated city or town under the provisions of this Act, the Board of County Commissioners of such county may, or upon the presentation of a petition signed by not less than twenty-five per cent. of the qualified electors in such community or group of communities must, issue a proclamation ordering a special election to be held, at which election the question of the organization of such community or group of communities as a municipality under the provisions of this Act shall be submitted to the qualified electors within the proposed municipal district. Said proclamation shall specify the time when and the places where such election shall be held, which must be within ninety days from the date of filing such petitions, and shall define the boundaries of said proposed municipal district, which shall include all such communities and cities, and such additional adjacent territories as shall, in the judgment of the Board of County Commissioners, provide for future urban growth.

If a majority of the legal voters at said election vote in favor of the organization of such municipal district, or in favor of annexa-

tion to an incorporated city or town, then the Board of County Commissioners shall declare the result of said elections, and immediately thereafter shall give notice for thirty days in a newspaper published within the proposed municipal district, or if none be published therein, by posting notices in six public places within the limits of the said district of the time and place or places of holding the first election for Commissioners of such municipal district under this law. At such election all electors qualified by the general election laws of the State who have resided within the limits of the municipal district for six months are qualified electors. The Board of County Commissioners must appoint judges and clerks of election, and canvass and declare the result thereof. The election must be conducted in the manner prescribed by law for the election of county officers and the Commissioners so elected must qualify in the manner prescribed by law for county officers.

Section 5409. The inhabitants of any municipality, coming under the provisions of this Act, as its limits now are, or may hereafter be, shall be a body politic and corporate and have a corporate name, and as such shall have perpetual succession, and may use a corporate seal. Through its duly elected officers, it may sue and be sued; may acquire property in fee simple or lesser interest, or estate by purchase, gift, devise, appropriation, lease, or lease with the privilege to purchase for any municipal purpose; may sell, lease, hold, manage, and control such property, and make any and all rules and regulations by ordinance or resolution which may be required to carry out fully all provisions of any conveyance, deed, or will, in relation to any gift or bequest, or the provisions of any lease by which it may acquire property; may acquire, construct, own, lease and operate and regulate public utilities; may assess, levy, and collect taxes for general and special purposes on all the subjects or objects which the municipality may lawfully tax; may borrow money on the faith and credit of the municipality by the issue or sale of bonds or notes of the municipality; may appropriate money of the municipality for all lawful purposes, may create, provide for, construct, regulate and maintain all things of nature of public works and improvements; may levy and collect assessments for improvement districts and other local improvements; may license and regulate persons, corporations, and associations engaged in any business, occupation, profession, or trade; may define, prohibit, abate, suppress, and prevent all things, detrimental to the health, morals, comfort, safety, convenience, and welfare of the inhabitants of the municipality and all nuisances and the causes thereof; may regulate the construction, height, and the material used in all buildings, and the maintenance and occupancy thereof; may regulate and control the use, for whatever purpose, of the streets and other public places; may create, establish, abolish, and organize offices, and fix the salaries and compensations of all officers and employees; may make and enforce local sanitary and police and other regulations; and may pass such ordinances as may be expedient for maintaining and promoting peace, good government, and welfare of the municipality, and for the performance of the functions thereof. The municipality shall have all powers that now are or hereafter may be granted to municipalities by the constitution or laws of Montana; and all such powers whether expressed or implied, shall be exercised and en-

forced in the manner prescribed by this Act, or when not prescribed therein, in such manner as shall be prescribed by the ordinances or resolutions of the Commission.

Section 5410. The form of government provided for in this Act shall be known as the "Commission-Manager Plan," and shall consist of a Commission of citizens, who shall be elected at large in the manner hereinafter provided. The Commission shall consist of three Commissioners for all municipalities having a population less than twenty-five thousand, and five Commissioners for all cities having a population of twenty-five thousand or more. The Commission shall constitute the governing body, with powers as hereinafter provided, to pass ordinances, adopt regulations, and appoint a chief administrative officer to be known as the "City Manager," and exercise all powers as hereinafter provided.

Section 5411. The Commissioners elected at the first election shall qualify, and their terms of office shall begin on the first Monday after their election, and the terms of office of the Mayor and Councilmen or Aldermen in such city or town in office at the beginning of the term of office of the Commissioners first elected under the provisions of this Act shall then cease and terminate, and the terms of office of all their appointed officers in force in such city or town shall cease and terminate as soon as the Commissioners shall by resolution declare. All Commissioners shall serve for a term of four years and until their successors are elected and have qualified; except that at the first election the two candidates having the highest number of votes shall hold office for a period of four years, less the time elapsed since the first of January of the even-numbered year last preceding. The terms of office of all other candidates shall expire on the first day of January in an even-numbered year following the special election provided for in this Act.

Section 5412. Vacancies in the Commission shall be filled by the Commission for the remainder of the unexpired term, but any vacancy resulting from a recall shall be filled in the manner provided in such case.

Section 5413. Members of the Commission shall be residents of the city or town and have the qualifications of electors, and own real estate situated therein to the assessed value of not less than one thousand dollars. Commissioners and other officers and employees shall not hold any public office or employment, except in the State militia, as school trustees, or notaries public, and shall not be interested in the profits or emoluments of any contract, job, work, or service for the municipality. Any Commissioner who shall cease to possess any of the qualifications herein required, shall forthwith forfeit his office, and any such contract in which any member is or may become interested, may be declared void by the Commission.

No Commissioner or other officer or employee of said city or town shall accept any frank, free ticket, passes, or service, directly or indirectly, from any person, firm or corporation, upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor. Such provisions of free service shall not apply to policemen or firemen in uniform or wearing their official badges, where the same is provided by ordinance.

Section 5414. Candidates to be voted for at all general municipal elections at which Commissioners are to be elected under the provisions of this Act shall be nominated by a primary election, and no other names shall be placed upon the general ballot except those selected in the manner hereinafter prescribed. The primary election for such nominations shall be held on the last Tuesday of August of the odd numbered years.

Any qualified elector of the municipality, who is the owner of real estate situated therein to the value of not less than One Thousand Dollars, desiring to become a candidate for Commissioner, shall, at least ten days prior to said primary election, file with the Clerk of the Commission a statement of such candidacy in substantially the following form:

State of Montana, County of ..... ss.

I, ..... , being first duly sworn, say that I reside at ..... street, ..... (city, town) of ..... , county of ..... State of Montana; that I am a qualified voter therein; that I am a candidate for nomination to the office of Commissioner to be voted upon at the primary election to be held on the last Tuesday of August, 19..... and I hereby request that my name be printed upon the official primary ballot for nomination by such primary election for such office.

(Signed) .....

Subscribed and sworn to (or affirmed) before me by ..... on this ..... day of ..... , 19.....

(Signed) .....

And shall at the same time file therewith the petition of at least twenty-five qualified voters requesting such candidacy. Each petition shall be verified by one or more persons as to qualifications and residence, with street number, of each of the persons so signing the said petition, and the said petition shall be in substantially the following form:

Petition Accompanying Nominating Statement.

The undersigned duly qualified electors of the (city, town) of ..... , and residing at the places set opposite our respective names hereto, do hereby request that the name of (name of candidate) be placed on the ballot as a candidate for nomination to the office of Commissioner at the primary election to be held on the last Tuesday of August, 19..... We further state that we know him to be a qualified elector of said (city, town), and a man of good moral character, and qualified, in our judgment, for the duties of such office, and we individually certify that we have not signed similar petitions greater in number than the number of Commissioners to be chosen at the next general municipal election.

Names of Qualifying Electors. Number. Street.  
(Space for Signatures.)

State of Montana, County of ..... ss.

....., being duly sworn, deposes and says, that he knows the qualifications and residence of each of the persons signing the appended petition, and that such signatures are genuine, and the signatures of the persons whose names they purport to be.

(Signed).....

Subscribed and sworn to before me this ..... day of ..... , 19 .....

Notary Public.

This petition, if found insufficient, shall be returned to .....  
at No..... Street, .....  
Montana.

Immediately upon the expiration of the time of filing the statements and petition for candidates, the Clerk of the Commission shall cause to be published for three consecutive days in all the daily newspapers published in the municipality, in proper form, the names of the persons that are to appear upon the primary ballots, and if there be no daily newspaper, then in two issues of any other newspaper that may be published in said municipality, and the said Clerk shall thereupon cause the primary ballots to be printed and authenticated with a facsimile of his signature.

Section 5415. All ballots used in all elections held under authority of this Act shall be without party mark or designation. The ballots shall be printed on plain, substantial white paper.

Except that the crosses here shown shall be omitted, and that in place of the names of persons here shown there shall appear the names of the persons who are candidates for nomination, the primary ballots shall be substantially as hereinafter designated. Primary, regular, and special election ballots provided under authority of this Act for the nomination or election of Commissioners shall not bear the name of any person or persons, or any issue, other than those candidates for nomination or election to the office of Commissioner.

#### Official Primary Ballot.

Vote for (insert here a number equal to the number of persons to be elected to the office of Commissioner at the next regular municipal election.)

If you wrongly mark, tear or deface this ballot, return it and obtain another.

Candidates for nomination to the office of Commissioner at the primary election.

<input checked="" type="checkbox"/>	John Doe
<input checked="" type="checkbox"/>	Henry Smith
<input checked="" type="checkbox"/>	George Jones
<input checked="" type="checkbox"/>	James Richards
<input checked="" type="checkbox"/>	Richard Doe
Official ballot attest: (Signature).....	
Clerk of Commission.	

Having caused said ballots to be printed, the Clerk of the Commission shall cause to be delivered at each polling place a number of said ballots, ten per cent in excess of the number of such voters registered in such polling place at the last general municipal election. The persons who are qualified to vote at the general election shall be qualified to vote at such primary election, and any person offering to vote may be orally challenged by any elector of the municipality upon any or all grounds set forth and specified in Section 706 of this Code, the provisions of Sections 707 to 714 inclusive, of this Code, shall apply at all challenges made at such election. Judges of election shall, immediately upon the closing of the polls, count the ballots and ascertain the number of such votes cast in such precinct for each of the candidates, and make return thereof to the Clerk of the Commission, upon proper blanks to be furnished by the Clerk of the Commission within twelve hours of the closing of the polls. On the day following the primary election, the Clerk of the Commission shall canvass said returns so received from all the polling precincts, and shall make and publish in all the newspapers in said municipality, at least once, the result thereof. Said canvass by the Clerk of the Commission shall be made publicly.

The candidates for nomination to the office of Commissioner who shall have received the greatest vote in such primary election shall be placed on the ballot at the next regular municipal election, in number not to exceed double the number of vacancies in the Commission to be filled.

All electors of municipalities under this Act, who, by ordinances governing cities and towns incorporated under the general municipal incorporation law, or by charter, would be entitled to vote for the election of officers at any general municipal election in such cities or towns, shall be qualified to vote at all elections under this Act; and the ballots to be used at such general municipal elections shall

be in the same general form as for such primary election so far as applicable, and in all elections in such municipalities, the election precincts, voting places, method of conducting the elections, canvassing of votes, and announcing the results, shall be the same as by law provided for the election of officers in such cities or towns, so far as the same are applicable and not inconsistent with the provisions of this Act.

Section 5416. The names of candidates on all ballots used in any election held under the authority of this Act shall be printed in rotation, as follows:

The ballot shall be printed in as many series as there are candidates for the office of Commissioner. The whole number of ballots to be printed shall be divided by the number of series, and the quotient so obtained shall be the number of ballots in each series. In printing the first series of ballots, the names of candidates shall be arranged in alphabetical order. After printing the first series, the first name shall be placed last and the next series printed, and the process shall be repeated until each name in the list shall have been printed first an equal number of times. The ballots so printed shall then be combined in tablets, so as to have the fewest possible ballots having the same order of names printed thereon together in the same tablet.

Section 5417. A regular election for the choice of Commissioners, provided for in this Act, shall be held on the first Tuesday after the first Monday in November of any odd-numbered year, and on the first Tuesday after the first Monday in November in each second year thereafter. Elections so held shall be known as regular municipal elections. All other elections held under the provisions of this Act, excepting those for the nomination of candidates for the office of Commissioner, shall be known as special municipal elections.

Section 5418. Every candidate for Commissioner shall, within thirty days after the election, file with the Clerk of the Commission, and publish at least once in a daily newspaper of general circulation, or weekly, if there be no daily newspaper published, his sworn statement of all his election and campaign expenses, and by whom such funds were contributed.

Any violation of the provisions of this section, shall be a misdemeanor and if committed by a successful candidate, give ground for the removal from office.

Section 5419. Any or all of the Commissioners provided for in this Act may be removed from office by the electors. The procedure to effect such removal shall be as follows:

A petition demanding that the question of removing such officers be submitted to the electors shall be filed with the Clerk of the Commission.

Such petition for the recall of any or all of the Commissioners shall be signed by at least twenty-five per cent. of the total number of registered voters in the municipality.

The signatures to such petition need not be appended to any one paper.

Section 5420. Petition papers shall be procured only from the Clerk of the Commission, who shall keep a sufficient number of

such blank petitions on file for distribution as herein provided. Prior to the issuance of such petition papers, an affidavit shall be made by one or more qualified electors and filed with the Clerk of the Commission, stating the name and the office of the officer or officers sought to be removed. The Clerk of the Commission, upon issuing any such petition papers to an elector, shall enter in a record, to be kept in his office, the name of the elector to whom issued, the date of such issuance, and the number of papers issued, and shall certify on such papers the name of the elector to whom issued, and the date issued. No petition papers so issued shall be accepted as part of the petition unless it bears such certificate of the Clerk of the Commission, and unless it be filed as provided herein.

Section 5421. Each signer of a recall petition shall sign his name in ink or indelible pencil, and shall place thereon, after his name, his place of residence by street and number. To each such petition paper there shall be attached an affidavit of the circulator thereof, stating the number of signers to such part of the petition, and that each signature appended to the paper was made in his presence and is the genuine signature of the person whose name it purports to be.

Section 5422. All papers comprising a recall petition shall be assembled and filed with the Clerk of the Commission as one instrument within thirty days after the filing with the Clerk of the Commission of the affidavit stating the name and the office of the officer sought to be removed.

Section 5423. The Clerk of the Commission shall at once submit the recall petition to the Commission, and shall notify the officer sought to be recalled of such action. If the official whose removal is sought does not resign within five days after such notice, the Commission shall thereupon order and fix a day for holding a recall election. Any such election shall be held not less than seventy nor more than eighty days after the petition has been presented to the Commission, at the same time as any other general or special election held within such period; but if no such election be held within such period, the Commission shall call a special recall election to be held within the time aforesaid.

Section 5424. The ballots at such recall election shall conform to the following requirements:

With respect to each person whose removal is sought, the question shall be submitted, "Shall (name of person) be removed from the office of (name of office) by recall?"

Immediately following each such question, there shall be printed on the ballots the two propositions, in the order set forth:

"For the recall (name of person.)"

"Against the recall (name of person.)"

Immediately to the left of the proposition shall be placed a square in which the electors, by making a cross mark, (X), may vote for either of such propositions. Under said questions shall be placed the names of candidates to fill the vacancy or vacancies.

The name of the officer or officers whose removal is sought shall not appear on the ballot as a candidate or candidates to succeed himself or themselves.

Before any such recall election for the removal of Commissioners shall be had, there shall be nominated candidates to fill the vacancy or vacancies, the nominations therefor to be made by petition, which petition for each candidate shall be signed by at least twenty-five registered electors, and shall be filed at least thirty days prior to the date fixed for holding such recall election; and the form and requirements for said petition shall be the same as hereinbefore provided in the case of primary nominations.

Section 5425. Should a majority of the votes cast at a recall election be against the recall of the officer named on the ballot, such officer shall continue in the office for the remainder of his unexpired term, subject to recall as before. If a majority of the votes cast at a recall election shall be for the recall of the officer named on the ballot, he shall, regardless of any technical defects in the recall petition, be deemed removed from office.

Section 5426. No recall petition shall be filed against a Commissioner within six months after he takes his office, nor, in case of an officer re-elected in a recall election, until six months after that election.

Section 5427. Any person who shall agree to perform any services in the interest of any candidate, for any office provided in this Act, in consideration of any money or other valuable thing for such services performed in the interest of any candidate shall be punished by a fine not exceeding Three Hundred Dollars, or be imprisoned in the county jail not exceeding thirty days, or both such fine and imprisonment.

Section 5428. Any person offering to give a bribe, either in money or other consideration, to any elector for the purpose of influencing his vote at any election provided in this Act, or any elector entitled to vote at any such election receiving and accepting such bribe or other consideration; any person who agrees, by promise or written statement, that he will do, or will not do, any particular act or acts, for the purpose of influencing the vote of any elector or electors at any election provided in this Act; any person making false answer to any of the provisions of this Act relative to his qualifications to vote at such election; any person wilfully voting or offering to vote at such election, who has not been a resident of this State for one year next preceding said election, or who is not twenty-one years of age, or is not a citizen of the United States, or knowing himself not to be a qualified elector of such precinct where he offers to vote; any person knowingly procuring, aiding, or abetting any violation hereof, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined a sum of not less than One Hundred Dollars nor more than Five Hundred Dollars, or be imprisoned in the county jail not less than ten nor more than ninety days, or both such fine and imprisonment.

Section 5429. Any proposed ordinance may be submitted to the Commission by petition signed by at least ten per cent. of the total number of registered voters in the municipality. All petition papers circulated with respect to any proposed ordinance, shall be

uniform in character and shall contain the proposed ordinance in full, and have printed or written thereon the names and addresses of at least five electors who shall be officially regarded as filing the petition, and shall constitute a committee of the petitioners for the purposes hereinafter named.

Section 5430. Each signer of a petition shall sign his name in ink or indelible pencil, and shall place on the petition papers, after his name, his place of residence by street and number. The signatures of any such petition papers need not all be appended to one paper, but to each such paper there shall be attached an affidavit by the circulator thereof, stating the number of signers to such part of the petition, and that each signature appended to the paper is the genuine signature of the person whose name it purports to be, and was made in the presence of the affiant.

Section 5431. All papers comprising a petition shall be assembled and filed with the Clerk of the Commission as one instrument, and when so filed the Clerk of the Commission shall submit the proposed ordinance to the Commission at its next regular meeting. Provision shall be made for public hearings upon the proposed ordinances.

The Commission shall at once proceed to consider it, and shall take final action thereon within thirty days from the date of submission. If the Commission rejects the proposed ordinance, or passes it in a different form from that set forth in the petition, the committee of the petitioners may require it to be submitted to a vote of the electors in its original form, or that it be submitted to a vote of the electors with any proposed change, addition, or amendment, if a petition for such election is presented bearing additional signatures of fifteen per cent. of the electors of the city or town.

Section 5432. When an ordinance proposed by petition is to be submitted to a vote of the electors, the committee of the petitioners shall certify that fact and the proposed ordinance to the Clerk of the Commission within twenty days after the final action on such proposed ordinance by the Commission.

Section 5433. Upon receipt of the certificate and certified copy of the proposed ordinance, the Clerk shall certify the fact to the Commission at its next regular meeting. If an election is to be held not more than six months nor less than thirty days after the receipt of the Clerk's certificate by the Commission, such proposed ordinance shall then be submitted to a vote of the electors. If no such election is to be held within the time aforesaid, the Commission shall provide for submitting the proposed ordinance to the electors at a special election.

Section 5434. The ballots used when voting upon any such proposed ordinance shall state the title of the ordinance to be voted on, and below it the two propositions, "For the ordinance" and "Against the ordinance." Immediately at the left of each proposition there shall be a square, in which, by making a cross, (X), the voter may vote for or against the proposed ordinance. If a majority of the electors voting on any such proposed ordinance shall vote in favor thereof, it shall thereupon become an ordinance of the municipality.

Section 5435. Proposed ordinances for repealing any existing ordinance or ordinances, in whole or in part may be submitted to the Commission as provided in the preceding section for initiating ordi-

nances. Initiated ordinances adopted by the electors shall be published and may be amended or repealed by the Commission as in the case of other ordinances.

Section 5436. No ordinance passed by the Commission, unless it be an emergency measure, shall go into effect until thirty days after its final passage by the Commission. If at any time within the said thirty days, a petition signed by twenty-five per cent. of the total number of registered voters in the municipality be filed with the Clerk of the Commission, requesting that any such ordinance be repealed or submitted to a vote of the electors, it shall not become operative until the steps taken herein shall have been taken.

Section 5437. The Clerk of the Commission shall deliver the petition to the Commission, which shall proceed to reconsider the ordinance. If, upon such reconsideration, the ordinance be not entirely repealed, the Commission shall provide for submitting to a vote of the electors, and in so doing, the Commission shall be governed by the provisions herein contained, respecting the time of submission and manner of voting on ordinances proposed to the Commission by petition. If, when submitted to a vote of the electors, any such ordinance be not approved by a majority of those voting thereon, it shall be deemed repealed.

Section 5438. Referendum petitions need not contain the text of the ordinance, the repeal of which is sought, but shall be subject in all other respects to the requirements for petitions submitting proposed ordinances to the Commission. Ballots used in referendum elections shall conform in all respects to those provided for in Section 5434 of this code.

Section 5439. Ordinances submitted to the Commission by initiative petition and passed by the Commission without change, or passed in an amended form and not required to be submitted to a vote of the electors by the committee of the petitioners, shall be subject to a referendum in the same manner as other ordinances.

Section 5440. If the provisions of two or more ordinances adopted or approved at the same election conflict, the ordinance receiving the highest affirmative vote shall prevail.

Section 5441. Ordinances passed as emergency measures shall be subject to a referendum in like manner as other ordinances, except that they shall go into effect at the time indicated in such ordinances. If, when submitted to a vote of the electors, an emergency measure be not approved by a majority of those voting thereon, it shall be considered repealed as regards any further action thereunder; but such measure so repealed shall be deemed sufficient authority for payment, in accordance with the ordinance, of any expense incurred previous to the referendum vote thereon.

Section 5442. In case a petition be filed requiring that a measure passed by the Commission providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such expenditure, actual issuance of the bonds, or actual execution of the contract for such improvement, may be taken prior to the election.

Section 5443. Every person who has been declared elected Commissioner shall, within ten days thereafter, take and file with the Clerk of the Commission his oath of office in the form and manner

provided by law, and shall execute and give sufficient bond to the municipal corporation in such sum as the Judge of the District Court of the county in which such municipality is situated shall designate, conditioned for the faithful performance of the duties of his office, which bond shall be filed with the Clerk and Recorder of the county in which such municipality is situated. The premium on such bond as may be required shall be paid by the municipality.

Section 5444. The mayor shall be that member of the Commission who, at the regular municipal election at which the Commissioners were elected, received the highest number of votes. In case two candidates receive the same number of votes, one of them shall be chosen mayor by the remaining members of the Commission. In event of a vacancy in the office of the Mayor, by the expiration of his term of office, the holdover Commissioner having received the highest number of votes shall be the Mayor. In the event there is a vacancy in the office of the Mayor for any other cause, the remaining members of the Commission shall choose his successor for the unexpired term from their own number. The Mayor shall be the presiding officer, except that in his absence, a president pro tempore may be chosen. The Mayor shall exercise such powers conferred, and perform all duties imposed upon him by this Act, the ordinances of the municipality, and the laws of the State, except that he shall have no power to veto any measure. He shall be recognized as the official head of the municipality, by the courts for the purpose of serving civil processes, by the Governor for the purposes of the military law, and for all ceremonial purposes.

Section 5445. In the event that the Commissioner who is acting as Mayor shall be recalled, the remaining members of the Commission shall select one of their number to serve as Mayor for the unexpired term. In the event of the recall of all the Commissioners, the person receiving the highest number of votes at the election held to determine their successor shall serve as the Mayor.

Section 5446. In municipalities having three Commissioners, two Commissioners shall constitute a quorum; and the affirmative vote of two Commissioners shall be necessary to adopt or reject any motion, resolution, or ordinances, or pass any measure unless a greater number is provided for in this Act. In municipalities having five Commissioners, three Commissioners shall constitute a quorum, and the affirmative vote of three Commissioners shall be necessary to adopt or reject any motion, resolution, or ordinance, or pass any measure unless a greater number is provided for in this Act. Upon every vote, the ayes and the nayes shall be called and recorded, and every motion, resolution, or ordinance shall be reduced to writing and read before the vote is taken thereon.

Section 5447. The salary of each Commissioner shall be as follows: for each meeting attended, cities or towns with less than twenty-five thousand inhabitants, Five Dollars; cities with more than twenty-five thousand inhabitants, not to exceed Ten Dollars; provided, that not more than one fee shall be paid for any one day. The salary of the Commissioner acting as Mayor shall be one and one-half times that of the other Commissioners.

Section 5448. At 10 o'clock a. m. on the first Monday after the first day of January, following a regular municipal election, the Commission shall meet at the usual place for holding the meetings of the

legislative body of the municipality, at which time the newly elected Commissioners shall assume the duties of their office. Thereafter, the Commissioners shall meet at such times as may be prescribed by ordinance or resolution, except that in municipalities having less than five thousand inhabitants, they shall meet regularly at least once and not more than four times per month, and in municipalities having more than five thousand inhabitants, they shall meet not less than once each week. Absence from five consecutive regular meetings shall operate to vacate the seat of a member, unless such absence be authorized by the Commission.

The Commissioner acting as Mayor, any two members of the Commission, or the City Manager, may call special meetings of the Commission upon at least twelve hours' written notice to each member of the Commission, served personally on each member, or left at his usual place of residence. All meetings of the Commission shall be public, and any citizen shall have access to the minutes and records thereof at all reasonable times. The Commission shall determine its own rules and order of business, and shall keep a journal of its proceedings.

(Sections 5449-5495, inclusive, bearing on Powers and Duties of Commission, omitted.)

Section 5496. The Commission shall have all powers to grant rights to occupy or use the streets, highways, bridges, or public places in the municipality that now are, or hereafter may be, granted to municipalities by the Constitution or Laws of Montana. Every ordinance or resolution passed by the Commission granting the right to occupy or use streets, highways, or public places of municipalities shall be complete in the form in which it is finally passed, and remain on file with the Commission for inspection by the public for at least one week before the final adoption or passage thereof.

Section 5497. The Commission may, by ordinance, renew any grant for the construction or operation of any utility, at its expiration, subject to petition and referendum as hereinbefore provided.

Section 5498. No exclusive grant or renewal shall ever be granted, and no grant shall be renewed before two years prior to its expiration.

Section 5499. The Commission shall, in any ordinance granting or renewing any grant to construct and operate a public utility, prescribe the manner in which the streets and public grounds shall be used and occupied.

Section 5500. The Commission may, by ordinance, grant to any individual, company, or corporation operating a public utility, the right to extend the appliances and service of such utility outside of the territory as designated by the franchise, subject to petition and referendum as hereinbefore stated. All such extensions shall become part of the aggregate property of the utility, and shall be subject to all the obligations and reserved rights in favor of the municipality applicable to the property of the utility by virtue of the ordinance providing for its construction and operation. The right to use and maintain any such extensions, shall expire with the original grant of the utility to which the extension was made or any renewal thereof.

(Sections 5501-5513, inclusive, bearing on Powers and Duties of Commission, omitted.)

Section 5514. Any municipality which shall have operated for more than two years under the provisions of this Act, may abandon such organization hereunder, and accept the provisions of the general law of the State applicable to municipalities of its population.

Upon the petition of not less than twenty-five per cent. of the electors of such municipality registered for the last preceding general election, a special election shall be called, at which the following proposition only shall be submitted:

"Shall the (city or town) of (name of city or town) abandon its organization under (name of this Act) and become a (city or town) under the general law governing (cities or towns) of like population; or if formerly organized under special charter, shall resume said special charter?"

If the majority of the votes cast at such special election be in favor of such proposition, the officers elected at the next succeeding biennial election shall be those then prescribed by the general laws of the State for municipalities of like population, and upon the qualification of such officers, such municipality shall become a municipality under such general law of the State, but such change shall not in any manner or degree affect the property, rights or liabilities of any nature of such municipality, but shall merely extend to each change in its form of government.

The sufficiency of such petition shall be determined, the election ordered and conducted, and the results declared, as provided for by the provisions of this Act, insofar as the provisions thereof are applicable. Whenever the form of government of a municipality is determined by a vote of the people under the provisions of this section, the same question shall not be submitted again for a period of two years, and any ordinance adopted by the vote of the people shall not be repealed or the same question submitted for a period of two years.

Section 5515. All Acts and parts of Acts, and all laws now in force or hereafter enacted relative to municipal corporations, are hereby continued in full force and effect, and shall be considered and construed as not repealed by this Act, except insofar as the same may be in conflict or inconsistent with the provisions of this Act.

Section 5516. All laws and parts of laws in conflict herewith are hereby repealed; provided, however, that this Act shall not repeal or modify any of the provisions of an Act approved March 4, 1913, entitled, "An Act Making the Board of Railroad Commissioners of the State of Montana Ex-officio a Public Service Commission for the Regulation and Control of Certain Public Utilities," etc., or any amendment or amendments of said Act, or Section 6645 of this code, and neither shall this Act in any manner curtail or impair the power or authority of said Public Service Commission, and any order made, action taken, or regulation provided by said Commission shall supersede and nullify any order, regulation, ordinance, or other action authorized by this Act in conflict with any such order, regulation, or action of said Public Service Commission.

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Section 5517. Whenever any group of communities shall become a single municipal district under the provisions of this law, the Commissioners elected at the first election shall have the same functions and authority, and municipal procedure in all respects shall be the

same as is provided in this law where single communities, cities, or towns adopt the Commission-Manager form of government, and the terms of all municipal officers in any prior city or town which may be included in such new municipal district shall in like manner cease and terminate as soon as the Commissioners shall by resolution so declare, and the corporate functions and existence of any such prior municipal corporation may in like manner be terminated by said Commissioners when the need for the further existence of such prior corporation shall be at an end.

Section 5518. Whenever any group of communities, including one or more incorporated cities or towns, shall become a single municipal district under this law, such municipal district shall bear the same name as the principal incorporated city or town in such district.

Section 5519. Whenever any group of communities, including one or more incorporated cities or towns, shall become a single municipal district under this law, the corporate property of each such city or town shall become the property of the new municipality, but improvements paid for in whole or in part by special assessments upon abutting property within special improvement districts shall not be deemed municipal property within the meaning of this law, to the extent of payments so made. If such prior city or town shall have an unpaid indebtedness, the Commissioners of said new municipality elected at the first municipal election shall inventory and appraise, or cause to be inventoried and appraised, all of such property, and if the amount of the indebtedness of such prior city or town shall exceed the inventory value of the property surrendered to the new municipality by such prior city or town, then the excess of such indebtedness over the inventory value of said property shall be a charge only against the taxable property within the limits of such prior city or town and shall be paid by levy upon such property alone.

Section 5520. Whenever any city organized under this Act includes the county seat of the county in which it is situated, any unused space in the county buildings in such city may be rented to the City Commissioners for municipal use by the Board of County Commissioners for such rent as shall represent an income of not more than six per cent. upon the investment in such buildings proportionate to the space rented. Such Commissioners may also contract with the Board of County Commissioners for the performance by county officials or employes of any kind of municipal work which can be feasibly performed by them. The compensation for such work shall be based upon additional cost of the county of its performance, and such compensation shall be paid into the general fund of such county unless otherwise provided by law.

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## ELECTIONS RELATING TO SCHOOL MATTERS.

### Election of School Trustees.

Section 985. Any person, male or female, who is a qualified voter at any election under this Act, shall be eligible to the office of School Trustee in such district.

Section 986. In districts of the first class, the number of Trustees shall be seven, in districts of the second class the number of Trustees shall be five, and in districts of the third class the number of Trustees shall be three.

Section 987. An annual election of School Trustees shall be held in each school district in the State on the first Saturday in April of each year at the district school-house, if there be one, and if there be none, at a place designated by the Board of Trustees. In districts of the third class having more than one school house where school is held, one Trustee must be elected from persons residing where such outside schools are located.

Section 988. In districts of the second and third classes, the names of all candidates for membership on the School Board must be received and filed by the Clerk and posted at each polling-place at least five days next preceding the election. Any five qualified electors of the district may file with the Clerk the nominations of as many persons as are to be elected to the School Board at the ensuing election.

Section 989. In districts of the second and third classes, the election of School Trustees shall be held and conducted under the supervision of the Board of School Trustees. The Clerk of the school district must not less than fifteen days before the election required under this Act, post notices in three public places in said district, and in incorporated cities in each ward, which notices must specify the time and place of election, and the hours during which the polls will be open. The trustees must appoint by an order entered in their records three qualified electors of said district to act as judges at such election, and the Clerk of the district shall notify them by mail of their appointment. If the judges named are not present at the time for opening the polls, the electors present may appoint judges, and the judges so appointed shall designate one of their number to act as clerk. The voting must be by ballot, without reference to the general election laws in regard to nominations, form of ballot or manner of voting, and the polls shall be open for such length of time as the Board of Trustees may order; provided, that such polls must be open from 2 p. m. to 6 p. m.

Section 990. In districts of the first class, no person shall be voted for or elected as Trustee unless he has been nominated therefor by a bona fide public meeting, held in the district at least ten days before the day of election, and at which at least twenty qualified electors were present, and a chairman and secretary were elected, and a certificate of such nomination, setting forth the place where the meeting was held, giving the names of the candidates in full and if there are different terms to be filled, the term for which such candidate was nominated, duly certified by the chairman and secretary of such meeting, shall be filed with the District Clerk at least eight days before the day of the election. The nomination and election of any person shall be void, unless he was nominated at a meeting as above provided at which at least twenty qualified electors were present, and his nomination certified and filed as aforesaid, and the Board of Trustees acting as a canvassing board shall not count any votes for any person unless he has been so nominated and a certificate thereof filed as herein required.

Section 991. The Board of Trustees shall, at least thirty days before the annual election of School Trustees, by an order entered upon the minutes of their meeting, designate and establish a suitable number of polling places and create an equal number of election precincts to correspond and define the boundaries thereof.

Section 992. The District Clerk shall, at least fifteen days before the election in districts of the first class, give notice of the election to be held in all such districts, by posting a notice thereof in three public places in the district, and in incorporated cities and towns in each ward, which notices must specify the time and place of election, the number of Trustees, and the terms for which they are to be elected, and the hours during which the polls will be open. Whenever, in the judgment of the Board of Trustees, the best interests of the district will be served by the publication of such notices of election in some newspaper in the county, they may, by an order entered on the minutes of their meeting, direct the District Clerk to publish the notice of election required to be given in districts of the first class, in some newspaper in the county.

Section 993. In districts of the first class the polls must be opened at 8 o'clock a. m. and kept open until 12 o'clock m., and from 1 o'clock p. m. until 8 o'clock p. m.

Section 994. The Board of District Trustees shall, at least ten days before the day of the annual election of Trustees in any district of the first class, appoint three qualified electors of the district for each polling place established to act as judges of election, and the District Clerk shall notify such persons by mail of their appointment. Such judges shall designate one of their number to act as clerk of such election. If the judges appointed, or any of them, are not present at the time of the opening of the polls, the electors present may appoint judges, who must be qualified electors, to act in the place of those who are absent.

Section 995. In districts of the first class, the ballots shall show the name or names of the candidates and the length of time for which they are to be elected. These ballots shall be as near as possible in the following form:

**For School Trustees.**

For Three (3) Year Term.

Vote for Three:

John Abner.

William Brown.

Adam Smith.

For One (1) Year Term.

George Davis.

Section 996. At every election held under this Act, a poll list shall be kept by the judges and clerk at each polling-place, and immediately after the close of the polls the judges shall count the ballots, and if there be more ballots than votes cast the judges must draw by lot from the ballots without seeing them, sufficient number of ballots to make the ballots remaining correspond with the number of the votes cast. The clerk shall write down in alphabetical order in a poll book provided for that purpose the name of every person voting at the time he deposits his ballot. There shall also be provided a tally list for each polling place; after the ballots have been counted and made to agree with the poll list the judges shall proceed to count them. The clerk shall enter in the tally list the name of every person voted for as Trustee, and the term,

and tally opposite his name the number of votes cast for him, and at the end thereof set down in a column provided for that purpose the whole number of votes he received. The judges and clerk shall sign a certificate to said tally list, setting forth the whole number of votes cast for each person or Trustee, designating the term, and they shall verify the same as being correct, to the best of their knowledge, before an officer authorized to administer oaths. No informality in such certificate shall vitiate the election, if the number of votes received for each person can reasonably be ascertained from said tally list. Said books and tally lists shall be returned to the Board of Trustees of the district, who shall canvass the vote and cause the clerk of the district to issue a certificate of election to the person or persons elected, designating their term, a copy of which must be forwarded to the County Superintendent of Schools. School Trustees are hereby authorized to administer oaths to judges of election.

Section 997. Trustees elected shall take office immediately after qualifying, and shall hold office for the term of three years except as elsewhere expressly provided herein, and until their successors are elected or appointed and qualified.

The clerk of the district shall, at the time of issuing certificate of election to a person elected as Trustee, deliver to such person a blank oath of office. Every trustee shall file his oath of office with the County Superintendent of Schools within fifteen days of the receipt of the certificate of election and blank oath of office from the clerk. Any Trustee failing to qualify as herein provided shall forfeit all rights to his office and the County Superintendent of Schools shall appoint to fill the vacancy caused thereby.

(As amended by Chapter 196 of the Laws of the Sixteenth Legislative Assembly.)

Section 998. A vacancy in the office shall be filled by appointment by the County Superintendent of Schools; provided, that in districts of the first and second class, such appointment shall be subject to confirmation by a majority of the remaining members of said board, if those remaining constitute a majority of the total number of the board. The Trustees so appointed shall hold office until the next annual election, at which election there shall be elected a School Trustee for the unexpired term. When any vacancy occurs in the office of Trustee of any school district by death, resignation, failure to elect at the proper time, removal from the district, or other cause, the fact of such vacancy shall be immediately certified to the County Superintendent by the clerk of the school district, and the County Superintendent shall immediately appoint in writing some competent person, who shall qualify and serve until the next annual school election. The County Superintendent shall at the time notify the clerk of the school district of every such appointment; provided, that absence from the school district for sixty consecutive days, or failure to attend three consecutive meetings of the Board of Trustees without good excuse, shall constitute a vacancy in the office of Trustee.

Section 999. Any School Trustee may be removed from office by a court of competent jurisdiction by law for removal of elective civil officers; provided, however, that upon charges being preferred

and good cause shown, the Board of County Commissioners may suspend a Trustee until such time as such charges can be heard in the court having jurisdiction thereof.

Section 1000. Should the office of the clerk of the school district become vacant, the Board of School Trustees shall immediately fill such vacancy by appointment, and the chairman of the Board of School Trustees shall immediately notify the County Superintendent of such appointment.

Section 1001. When at any annual school election the terms of a majority of the Trustees regularly expire in districts of the first class, three Trustees, in districts of the second class, two Trustees, in districts of the third class, one Trustee, shall be elected for three years, and the remaining Trustee or Trustees whose terms shall expire shall hold over for one or two years as may be necessary to prevent the terms of a majority of the Board of Trustees expiring in any one year; provided, that it shall be determined by lot what trustees shall hold over and for what term.

Section 1002. Every citizen of the United States who has resided in the State of Montana for one year, and thirty days in the school district, next preceding the election, may vote thereat. Women of the age of twenty-one years and upwards, who are citizens of the United States and who have resided in the State of Montana one year and in the School District for thirty days next preceding the day of the election, may vote thereat.

Section 1003. Any person offering to vote may be challenged by any elector of the district, and the judges must thereupon administer to the person challenged an oath or affirmation in substance as follows: "You do solemnly swear (or affirm) that you are a citizen of the United States; that you are twenty-one years of age, and that you have resided in the State one year and in this school district thirty days next preceding this election, and that you have not voted this day, so help you God." If he takes this oath or affirmation his vote must be received, otherwise rejected. Any person who shall swear falsely before any such judge of election shall be guilty of perjury, and shall be punished accordingly.

Section 1004. All the expenses necessarily incurred in the matter of holding elections for School Trustees shall be paid out of the school funds of the district. Judges of election of districts of the first and second class shall receive not to exceed three dollars per day each for all services connected with the election.

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## CONSOLIDATION OF SCHOOL DISTRICTS.

Section 1034. That two or more school districts may be consolidated, either by the formation of a new district or by the annexation of one or more districts to an existing district, as hereinafter provided.

Whenever the County Superintendent of Schools receives a petition signed and acknowledged by a majority of the resident freeholders of each district affected, qualified to vote at school elections, praying for consolidation, he shall within ten days cause a ten days' posted notice to be given by the clerk of each district, such notice to be

posted in three public places, in each district, of an election in such district at a time and place specified in each notice to vote on the question of consolidation. The votes at such election shall be by ballot, which shall read "For consolidation" or "Against consolidation." The presiding officer at such election shall, within ten days thereafter, certify the result of the vote to the County Superintendent of the county in which the district mainly lies. If the majority of the votes cast in each district be for consolidation, it carries, and the Superintendent, within ten days thereafter, shall make proper orders to give effect to such vote, and shall thereafter transmit a copy thereof to the County Clerk and Recorder of each county in which any part of any district lies, and to the clerk of each district affected. If the order be for the formation of a new district, it shall specify the name and number of such district, and he shall appoint three Trustees to serve until the first Saturday in April succeeding. At the regular election succeeding there shall be elected by the regularly qualified electors three Trustees, one of whom shall serve for one year, one for two years and one for three years. The election of Trustees and terms shall be the same as for other districts under the general school laws.

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Section 1040. The following terms shall be construed to mean:

The "Rural School District" shall mean the territory obtained by the uniting of all third class districts and parts of first or second class districts as are not contiguous to main body of such districts.

"Subdivision" shall mean one of the five parts into which the "Rural School Districts" is divided for purposes of election of Trustees.

"Sub-district" shall mean the local third class districts as constituted by Chapter 76 of the Session Laws of the Thirteenth Legislative Assembly.

Section 1041. In any county of Montana which shall elect to accept the provisions of this Act, all school districts and parts of school districts of the third class, and minor portions of any district of the first and second class which are not contiguous to the main body of such districts, as herein provided, shall, for the purpose set forth in this Act, from and after the first day of July next following the acceptance of this Act, together constitute a single district to be known as the "Rural School District" of the county in which it is situated. Such rural school district shall be a unit for the purpose of taxation and issuance of bonds and such other purposes as are hereinafter provided, and shall be divided into subdivisions for the selection of Trustees, and consist of sub-districts for the purposes of local management, local control, and custody of property. The boundaries of the subdivisions shall be determined by the Board of County Commissioners, who shall divide that portion of the county to be included in the rural school district of the county into five parts, which shall be known as subdivisions, each having as near as may be one-fifth of the total area of the rural school district, and making the boundaries of these parts coincide with the boundaries of the sub-districts. All portions of first and second class districts,

which become a part of the rural school district as herein provided, shall be attached to adjacent sub-districts in the manner provided by law.

Section 1042. Any county in the State may adopt the county unit system for rural schools provided in the succeeding sections of this Act, on the conditions hereinafter prescribed as follows:

Whenever, between the first day of January and the first day of May in any year, three hundred electors residing in third class school districts of any county shall petition the Board of County Commissioners, requesting that the county unit system for rural schools be established in such county, the County Commissioners shall call an election to be held in all third class districts of the county, and minor portions of districts of the first and second-class which are not contiguous to the main body of such districts, within ninety days, and in any event not later than the tenth day of June following. The County Commissioners shall appoint precinct judges and clerks, and the election shall be conducted in accordance with the general election law of the State, and the judges and clerks of such election shall serve without compensation. The place of election in each precinct shall be the established polling-place in each precinct. All registered electors residing in the proposed rural school district, and whose names appear upon the registration books of the county upon the day of calling such election, shall be entitled to vote upon such election. The polling books of any precinct shall not contain the names of any registered electors residing in the main portion of any district of the first and second class. The County Clerk shall give twenty days' notice of such election by publication in the official paper of the county, that the question of adopting the county unit system for rural schools will be submitted to the qualified electors in all third-class districts of the county, and in minor portions of districts of the first and second class which are not contiguous to the main body of such districts, at the time designated. It shall not be necessary to give notice of closing the registration books of the county in elections held pursuant to the provisions of this Act. But the registration books of the county for such election shall automatically close upon the day of calling such election. The qualified electors of the proposed rural school district shall vote by ballot for or against the adoption of the county unit system for rural schools. An elector desiring to vote for such adoption shall do so by marking "(X)" on his ballot before the phrase, "For the County Unit;" an elector desiring to vote against such adoption shall do so by marking "(X)" on his ballot before the phrase, "Against the County Unit."

After the election the ballots shall be counted and the votes canvassed in the manner prescribed in the general election laws, and if a majority of the votes cast at the election is in favor of the county unit, the Board of County Commissioners shall make and enter an order creating such rural school district and establish the boundaries of each subdivision, and this Act shall become effective in so far as the county is concerned.

If a majority of the votes cast at such election is against organization of the rural school district, another election upon the question of organizing a rural school district can not be held until after the expiration of two years.

As soon as the Board of County Commissioners has for the first time established the boundaries of the subdivisions as hereinbefore provided, the said Board of County Commissioners shall thereupon appoint one elector from among the residents of each of the five subdivisions of the rural school district to constitute a Board of Trustees for the rural school district of the county. Of these five Trustees so appointed, two shall serve until the first regular school election after their appointment, two until the second regular school election after their appointment, and one until the third regular election after his appointment, the terms of Trustees so appointed to be determined by lot.

Section 1043. These Trustees shall be electors of subdivision of the rural school district of the county in which they are to serve. Except as hereinbefore provided, such Trustees shall be elected at the annual school election and shall serve for three years, and until their successors are elected or appointed and qualify.

On or before fifteen days prior to the annual school election, there may be filed with the Secretary of the Board of Trustees of the rural school district, petitions signed by at least twenty-five qualified electors of each subdivision of the rural school district in which the term of a Trustee is about to expire, nominating candidates for Trustees to be voted for at the ensuing election, and if any Trustees are to be elected to complete unexpired terms, as hereinafter provided, such petition shall state whether the persons nominated therein are nominated for such unexpired terms or for full terms of three years. The Board of Trustees shall cause the names of all candidates for Trustees of the rural school district to be printed and sent to the clerk of each sub-district of the part in which a Trustee is to be elected, to be posted at each polling-place at least five days preceding the election. The election of School Trustees shall be held and conducted under the supervision of the Trustees of the local sub-district, who shall, not less than fifteen days before the annual election, post notices in three public places in their sub-districts, which notices must specify the time and place of election and hours during which the polls will be open. The local Trustees must appoint, by order entered in their records, three qualified electors of said sub-districts to act as judges at said election, and the local clerk shall notify them by mail of their appointment. If the judges are not present at the time of opening the polls, the electors present may appoint judges, and the judges so appointed shall designate one of their number to act as clerk. The voting must be by ballot without reference to the general election laws in regard to nominations, forms of ballots, or manner of voting, and the polls shall be open for such time as the Board of Trustees may order; provided, that such polls must be open between 2 p. m. and 6 p. m. It shall be the duty of the judges of the election to canvass the votes cast in their respective sub-districts for Trustees, and make returns of the same to the County Clerk in the manner and form as may be prescribed by the general election law of the State, in so far as the same may be applicable to school elections. The returns shall be canvassed and the result declared by the County Commissioners, and certificates of election issued by the County Clerk in the same manner as may be prescribed by the general election laws of the State, in so far as the same may be applicable thereto; provided, that in the election of said

Board of Trustees the votes cast in each of the five subdivisions of the rural school district, as provided in Section 6 of this Act, shall be canvassed separately, and the candidate receiving the largest number of votes in any subdivision shall be elected as the Trustee for such subdivision; provided, further, that no one shall be eligible as Trustee who is not at the time of his election or appointment a bona fide resident and elector of the subdivision of the rural school district for which he is elected.

Persons elected or appointed as Trustees shall qualify by taking an oath to perform their duties according to law. Their oaths may be administered by the County Superintendent, or any other officer authorized by law to administer oaths, and must be filed with the clerk of the Board of Trustees within fifteen days after the election or appointment, and said duly elected Trustees shall begin their term of service on the third Saturday in April next following their election. The Board of County Commissioners shall appoint Trustees to fill vacancies in the Board of Rural School District Trustees; provided, that such appointment is confirmed by the majority of the remaining members of such Board. Trustees so appointed shall serve till the next regular school election, at which election successors shall be elected to serve for the unexpired balance of the term if any.

Section 1044. The Board of Trustees of every rural school district shall have only the powers and shall perform only the duties enumerated in this Act. The Board of Trustees of each sub-district of the rural school district shall have all the powers and perform all the duties imposed upon Trustees of school districts according to the provisions of Chapter 76 of the Session Laws of the Thirteenth Legislative Assembly, and Acts amendatory thereof and supplementary thereto, except as modified by the terms of this Act.

The Board of Trustees of each sub-district of the rural school district, shall on or before the regular annual meeting of the Board of Trustees of the rural school district held on the first Thursday in July, prepare and certify to the Board of Trustees of the rural school district, a budget containing an estimate of all the different items of expenditures for operation and maintenance to be incurred by such sub-districts for the ensuing school year. Such budget shall explain in detail the several items of estimated expenditures, together with an explanation of the necessity therefor. Such budget shall also be accompanied by a full and complete report of the school facilities of the sub-district, and of the educational opportunities afforded to each child in such sub-district.

For any extraordinary expenditure or expenditures for any purpose other than operation and maintenance to be incurred by a sub-district, not included in the budget for such sub-district as adopted by the Board of Trustees of the rural school district, the Board of Trustees of such sub-district may cause to be levied upon the property in the sub-district a special tax pursuant to the provisions of Section 1203 of this Code.

The Board of Trustees of the rural school district shall, at its regular meeting on the first Thursday in July, examine the budgets certified to it by the Trustees of the several sub-districts, and from such budgets shall prepare a complete budget for the rural school district, which shall provide for the furnishing of reasonable educa-

tional facilities to every child in the rural school district, including the payment of the board or rent or both, and transportation of children from isolated sections, in cases where the same is more expedient than maintaining a school in such isolated sections, and also including any other reasonable item of expenditure not herein enumerated, and necessary for carrying out the provisions of this Act. Such budget shall contain the detailed estimated expenditures for each sub-district.

The Board of Trustees of the rural school district shall on, or before the first Monday in August in each year, certify to the Board of County Commissioners the total amount of money to be raised by taxation for the rural school district pursuant to the budget adopted by the Board, and the Board of County Commissioners shall cause to be levied, at the time of the levy of taxes for State and county purposes, a sufficient levy upon all of the taxable property within the rural school district, a tax sufficient to raise the amount of money so certified by the Board of Trustees of the rural school district, after allowing a deduction of ten per cent on account of delinquencies. The Board of Trustees of the rural school district shall, at its regular meeting held on the second Thursday in December, apportion to the several sub-districts their proportionate part of the taxes then collected, such proportionate part to be determined in accordance with the budget as above mentioned.

The Board of Trustees of any rural school district is hereby vested with the power and authority to issue and negotiate, on the credit of the rural school district, coupon bonds for any one or more of the purposes authorized in Section 1224 of this Code. The question of such bond issues shall be submitted to the electors of the rural school district in the same manner provided by said Section. The Clerk of the Board of Trustees of the rural school district, upon the passing of the resolution by the Board submitting to the electors of the rural school district the question of the issuance of bonds, shall furnish the clerk of each sub-district with three copies of the notice of election of such bond issue. The clerk of each sub-district shall, not less than fifteen days before the date specified in such notices for such election, post notices in three public places in said district, one of which shall be at the place of election designated in such notice. The ballots shall be substantially in the form provided in Section 1225 of this Code, and the votes shall be canvassed by the Trustees in each sub-district, who shall certify the result of the election in each sub-district to the Secretary of the Board of Trustees of the rural school district. If a majority of the votes cast in such rural school district are in favor of the issuance of bonds the Board of Trustees shall thereupon proceed to issue and sell the bonds in accordance with the provisions of Sections 1225 and 1226 of this Code. The County Superintendent of Schools shall be ex-officio Secretary of the Board, and it shall be his duty to enforce the rules, regulations, and orders of the Board, but shall not be entitled to vote.

Section 1045. All maintenance money or sinking funds on hand as a surplus or credit to the various third class districts in any county, prior to and on July first, of the year in which the provisions of this Act shall be accepted in such county, as hereinabove provided, shall become a part of the corresponding maintenance or sinking funds of the rural school district of the county.

All the existing indebtedness of the various third-class districts in any county, prior to and on July first of such year, whether for maintenance or bonded indebtedness or otherwise, shall become the indebtedness of and shall be assumed and paid by the rural school district of that county, such payments being made from the corresponding respective and proper funds. Said Board of Trustees in the rural school district is authorized and empowered to issue bonds of the rural school district to take up and cancel such bonded indebtedness.

Section 1046. Second-class districts may be created from the territory embraced in any rural school district, within the discretion of the Board of Trustees of such rural school district; provided, that such proposed district has an assessed valuation of not less than Six Hundred Thousand Dollars. Such district shall be created only upon the petition of one hundred qualified electors residing in the proposed district, setting forth in the petition the assessed valuation and the boundaries of the proposed district. In the event of the creation of such district, the County Superintendent of Schools shall, upon notice received from the Board of Trustees of the rural school district, appoint five Trustees for the newly created district, who shall serve until the next regular election.

All school property situated in the new district shall become the property of the new district, and the remainder of the property of the rural school district shall continue to be the property of the rural school district.

If, at the time such new district is created, there is any indebtedness against the rural school district, then the Board of County Commissioners of the county in which such districts are located shall, at its first regular meeting after the order creating said new district is made, apportion such indebtedness between said districts, by first deducting from said indebtedness the amount of all moneys in the treasury belonging to the sinking fund of said rural school district, and then apportioning the remainder of the indebtedness between the respective districts in proportion to the value of the school property remaining in the rural school district to the value of the school property in the new district. Upon the adjustment of such indebtedness, it shall be the duty of the Board of Trustees of such new district to cause to be made out, issued, and delivered to the Trustees of such rural school district, warrants equal to the amount of such indebtedness apportioned to such new district, which warrants, upon presentation, shall be indorsed by the treasurer of the county, "Not paid for want of funds" and shall thereafter draw interest at the rate of six per cent. per annum until such time as funds" may be available for their payment.

Until said warrants are paid, it shall be the duty of the Board of County Commissioners of said county to levy annually a tax upon the taxable property of such new school district, sufficient to pay the interest on said warrants, and the money realized from the levy of such taxes shall be, by the County Treasurer, kept in a special fund to be used solely for the purpose of paying the interest and principal of said warrants.

The School Trustees of such new district shall have, and are hereby given the power and authority to issue on the credit of their district, coupon bonds and to sell and dispose of the same for the purpose of providing the necessary funds to pay such warrants. Such bonds shall be issued and disposed of upon condition and in the manner provided in Section 1235 of this Code, except that said bonds shall recite in the body of such bond that "This bond is issued for the purpose of providing funds to pay outstanding warrants."

Section 1047. The regular annual meeting of the Board of Trustees of the rural school district shall be held on the first Thursday in July. At this meeting new members elected shall take office, a President shall be elected for the ensuing year by the Board from among its own membership, and the executive officers of the Board shall make their annual reports. Another regular meeting shall be held on the second Thursday in December, and special meetings may be called by the President, or by three other members of the Board. Each member of the Board of Trustees of the rural school district shall be paid his necessary traveling expenses in attending regular meetings, but not to exceed two special meetings, and on honorarium of Fifty Dollars per year. Failure to attend two regular meetings in succession, unless excused on account of sickness, shall work a forfeiture of the office.

Section 1048. A rural school district organized under the provisions of this Act may be dissolved after the expiration of four years from the date of its organization, in the following manner, to-wit:

Whenever, between the first day of January and the first day of March in any year, three hundred registered electors in a rural school district shall petition the Board of Trustees of the rural school district requesting the dissolution of such school district, the Board of Trustees of the rural school district shall submit the question of such dissolution to the electors at the annual school election. Notices of election shall be posted in the same manner as for the election of trustees in the sub-districts, and the election shall be conducted and the votes canvassed in the manner provided in the election of School Trustees. If a majority of votes cast at such election shall be in favor of the dissolution of the rural school district, the Board of Trustees of the rural school district shall make an order to that effect and certify the same to the Board of County Commissioners, and on and after July first the rural school district shall be dissolved, and the several sub-districts shall thereupon become school districts of the third class. The Board of County Commissioners shall distribute funds of the rural school district, and apportion the indebtedness of the rural school district in the following manner: Each school district (formerly a sub-district) shall thereupon become the owner of the property of the rural school district located within its boundaries. The County Commissioners shall apportion to each school district that portion of the funds of the rural school district, other than sinking funds, which is in proportion to the number of school census children within the school district. The County Commissioners of the county shall continue to levy the taxes upon all the prop-

erty located within the territory which formerly constituted the rural school district, until the interest and the principal of all bonds issued by the rural school district shall have been paid in full.

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Section 1173. Whenever, in the judgment of the Board of Trustees of any school district of the third class, it is desirable to select, purchase, exchange, or sell a school house site, or whenever petitioned so to do by one-third of the voters of such district, the District Board shall without delay, call a meeting at some convenient time and place fixed by the Board to vote upon such question of selection, purchase, exchange, or sale of school-house site. Such election shall be conducted and votes canvassed in the same manner as at the annual election of school officers. Three notices giving the time, place, and purpose of such meeting shall be posted in three public places in the district by the clerk at least ten days prior to such meeting. If a majority of the electors of the district voting at such meeting or election shall be in favor of selecting, purchasing, exchanging, or selling the school-house site, the Board shall carry out the will of the voters thus expressed; provided, that all sites so chosen must be approved by the County Superintendent of Schools and the County Health Officer; and also provided that any sites so changed cannot again be changed within three years from the date of such action, except upon the advice of the County Superintendent of Schools and County Health Officer.

The school site shall be selected in a place that is convenient, accessible, suitable, and well drained; provided, that in districts of the first and second class, the site shall be not less than one-half of an average city block, and in districts of the third class shall contain not less than one acre. The State Board of Land Commissioners shall have authority to sell to any school district at the appraised value, or to lease for any period of time less than ninety-nine years, at a rental of one dollar per year, any tract of State land not exceeding ten acres, to be used for school-house site.

\* \* \* \* \*

Section 1224. 1. The Board of School Trustees of any school district within this State is hereby vested with the power and authority to issue and negotiate, on the credit of the school district, coupon bonds for any one or more of the following purposes: (a) For the purpose of building, altering, enlarging, repairing or acquiring by purchase one or more school-houses in said district; (b) for the purpose of furnishing and equipping one or more school-houses in said district; (c) for the purpose of purchasing land for a school-house site; and (d) for the purpose of constructing or acquiring by purchase a teacherage in said district, and purchasing land necessary for the same.

2. The Board of School Trustees of any school district within this State shall, whenever a majority of the School Trustees so decide, or when petitioned so to do by thirty per centum of the qualified electors of said district, submit to the electors of the district the question whether the Board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per cent. of the taxable property in said district, bearing a certain rate of interest not

exceeding six per cent. per annum, payable semi-annually and payable at a certain time, and redeemable at a certain time, for any one or more of the purposes specified in Paragraph one of this section. Upon the passing of a resolution by the Board of Trustees, submitting to the electors of the district the question of the issuance of bonds, the clerk of such school district shall not less than fifteen days before the date specified for such election, post notices in three public places in said district, and in incorporated cities and towns at least one notice in each ward, which notices must specify the time and place of election, the hours during which the polls will be opened, and the amount, the maximum rate of interest time payable, time redeemable, and purpose of the proposed bond issue. Such notice of election shall be substantially in the following form:

NOTICE OF SPECIAL BOND ELECTION.

Notice is hereby given by the undersigned Clerk of School District No..... of ..... county, State of Montana, that under and pursuant to a certain resolution, duly adopted at a meeting of the Trustees of said school district, held on the ..... day of ..... A. D. 19...., an election of the qualified electors of School District No..... of ..... county, State of Montana, will be held at ..... on the ..... day of ..... A. D. 19...., for the purpose of voting upon the question of whether the Board of Trustees shall be authorized to issue coupon bonds to the amount of ..... Dollars (\$.....) bearing interest at a rate not exceeding ..... per cent. per annum payable semi-annually, said bonds to be payable in ..... years, and redeemable in ..... years, for the purpose of .....

The polls will be open from ..... o'clock ..... m. until ..... o'clock ..... m.

Dated and posted this ..... day of ..... A. D. 19.....

..... Clerk of said School District No.....

3. Should the Trustees of any school district in which bonds have heretofore been issued to any amount, desire to submit to the electors of the district the question as to whether additional bonds shall be issued, they may do so, but no such bonds shall be issued unless a majority of all votes cast at any such election

shall be cast in favor of such issue of additional bonds; and in no case shall the whole issue of bonds exceed the amount of three per cent of the taxable property within said school district.

Section 1225. 1. Such election shall be held in the manner prescribed for the election of School Trustees.

2. The ballots shall be substantially in the following manner;

Shall coupon bonds be issued and sold to the amount of.....  
Dollars (\$.....), bearing not to exceed.....per cent  
interest, payable in.....years, and redeemable in.....  
years, for the purpose of (briefly state purpose or purposes of such  
bond issue)?

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BONDS—Yes.

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BONDS—No.

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The elector shall prepare his ballot by putting an "X" before "Bonds—Yes" in the vacant square provided therefor if he wishes to vote for the bond, or before "Bonds—No," in the vacant square provided therefor if he wishes to vote against the bonds.

The foregoing sentence containing instructions for the marking of the ballot shall also be printed, typewritten, or written upon the ballot at the top thereof.

3. If a majority of votes cast at such election are in favor of the issuance of such bonds, the Board of School Trustees shall, within sixty days from the date of such election, pass a resolution providing for the issuance of such bonds and prescribing the form thereof. Such bond shall bear the signature of the Chairman of the Board of Trustees, and shall be signed by the clerk of such school district, and the coupons attached to the bonds shall be signed by the said chairman and clerk; provided, a facsimile of the signatures of the chairman and clerk may be affixed to the coupons only when so recited in the bonds, and the corporate seal of the school district shall be attached to each of the bonds. Each bond so issued shall be registered by the County Treasurer in a book provided for that purpose, which shall show the number and amount of each bond, its date, date payable, date redeemable, and the person to whom the same is issued or sold; and the said bonds shall be sold by the Trustees as hereinafter provided.

## COUNTY HIGH SCHOOL.

Section 1263. Whenever one hundred freeholders in any county shall petition the Board of County Commissioners, requesting that a high school be established in their county, the County Clerk shall give twenty days' notice, by publication in the official paper of the county, that such petition has been filed, and that any village, town, or city may become a candidate for the location of said high school upon petition of not less than fifty freeholders of said village, town, or city, requesting that said place be named as the candidate for the location of said high school. All nominations of places for the location of said school shall be filed with the Board of County Commissioners within thirty days from the date of the first publication of said notice. Any number of places may be candidates for the location of said school, but no freeholder shall append his name to more than one petition. If such petition is filed at any time when the Board of County Commissioners is not in session, the County Clerk shall notify the Commissioners thereof, and a special meeting shall be held to call the necessary election herein provided for.

Section 1264. At the expiration of thirty days from the date of the first publication of said notice, the County Commissioners shall call an election and appoint precinct judges and clerks. Said election shall be conducted in accordance with the general election laws of the State. The County Clerk shall give twenty days' notice of such election by publication in the official paper of the county that the question of establishing a high school in said county, and the location thereof, will be submitted to the qualified electors of said county at a designated time. The notice shall distinctly specify the places which are candidates in the forthcoming election. The qualified electors shall vote by ballot, for or against the establishment of a county high school, and on separate ballots with the names of the place or places that are candidates for the location of said school written or printed thereon, vote for not more than one of the places named upon said ballot as a candidate for the location of said school. The ballots shall be substantially in the following form:

### **Ballot No. 1.**

For a County High School.  
Against a County High School.

### **Ballot No. 2.**

Helena.  
Marysville.

An elector desiring to vote for the establishment of a high school shall do so by placing an "X" before the clause, "For a County High School," which shall be a vote in favor of establishing a county high school. An elector desiring to vote against the establishment of a high school shall do so by placing an "X" before the clause, "Against a County High School." An elector desiring to vote for the location of a county high school at a certain place shall do so by placing an "X" before the name of the place desired for the location of such school.

Section 1265. After the election the ballots on said question shall be canvassed in the manner provided for general county elections,

and if the vote in favor of establishing a county high school shall be a majority of all votes cast upon said proposition, the Board of County Commissioners shall proceed to canvass the vote for the different candidates for the location of said school, and the village, town, or city having the largest number of votes for the location of said school, provided said number of votes be a majority of all votes cast in favor of the measure, shall be declared to be the place for the location thereof. If the result is in favor of establishing such high school, and any candidate for its location has a majority, the Board of County Commissioners, by an order duly entered on their minutes, shall so declare this fact, and the Board shall immediately thereafter appoint six persons, residents and taxpayers of the county, not less than three nor more than four of whom shall be residents of the village, town or city where the school is located, who shall, with the County Superintendent of Schools, constitute a Board of Trustees for said school.

In case of a tie vote between two or more of the candidates having the highest number of votes for the location of said school, the County Commissioners shall immediately call another election in the manner provided by law for general county elections, at which the only question to be submitted shall be the location of said school, and only the names of those candidates so tied shall appear upon the ballot.

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Section 1276. The Secretary of the Board of County High School Trustees, whenever a majority of the Board shall so decide, shall certify to the Board of County Commissioners that they have decided to submit to the electors of the county the question whether the county bonds shall be issued for the purpose of the erection or purchase of a building or buildings for high school purposes and the equipment thereof, or for the erection and equipment of a dormitory or dormitories, or gymnasium, and for a suitable site or sites therefor, and shall include in such certificates the amount of such bonds, which amount shall not exceed the sum of Four Hundred Thousand Dollars, in any one county of the first class, and Three Hundred Thousand Dollars, in any one county of the second or third class, and in all other counties shall not exceed the sum of Two Hundred Thousand Dollars in any one county. Such bonds may run for a term of twenty years or less, but no longer; provided, that any such issue of bonds shall not increase the indebtedness of any county beyond the maximum limit fixed by the State constitution.

That as soon as practicable after receiving such certificate the Board of County Commissioners shall fix the term for which said bonds are to run, and the rate of interest they shall bear; and shall proceed to submit the question of issuing such bonds to the qualified electors of the county in the manner provided by law for the issuance of other county bonds. If such bonds are issued, the Board of County Commissioners, at the time of making the levy of taxes for county purposes each year, shall levy a tax for that year upon the taxable property in the county for the interest and redemption of said bonds, and such taxes must not be less than sufficient to pay the interest on said bonds for that year, and such proportion of the principal as is to become due during the year, and in any event must

be high enough to raise annually, for the first half of the term, a sufficient sum to pay the interest thereon, and during the remainder of the term, high enough to pay said annual interest and to pay annually, a portion of the principal of said bonds equal to the quotient produced by taking the whole amount of said bonds outstanding, and dividing it by the number of years said bonds have yet to run; and all moneys so levied, when collected, must be paid into the county treasury to the credit of the county high school and kept in a separate fund, and used for the payment of the principal and interest on said bonds, and for no other purpose; provided, however, that the accumulated money may be invested as is provided for the investment of money collected for the payment of school district bonds. Said tax shall be levied and collected as other county taxes.

In any county wherein there are now maintained one or more district high schools, in which a county high school has been created, or may hereafter be created, the Trustees, of any such school district may, by resolution duly passed at a regular or special meeting of such Board of Trustees, discontinue such district high school, to take effect upon the establishment of the county high school; and in case such county high school is located, as provided in this chapter, within any school district maintaining a district high school, it shall be the duty of the Board of Trustees of such school district to discontinue the district high school.

Section 1277. Nothing in this Act shall be construed to amend or repeal any of the provisions of an Act entitled: "An Act requiring a petition of 20 per cent of the qualified electors who are taxpayers to authorize the voting upon the issuance of any school, town, city or county bonds, and providing who are entitled to vote thereon," enacted by the 17th Legislative Assembly of Montana, (Section 1263 of this Code) and that all other acts and parts of acts in conflict here-with are hereby repealed.

Section 1219. Whenever the Board of Trustees of any school district shall deemed it necessary to raise money by taxation in excess of the ten-mill levy now allowed by law for the purpose of maintaining the schools of said district, or building, altering, repairing, or enlarging any school-house or houses of said district, for furnishing additional school facilities for said district, for building and equipping heating or other plants for said district, or for any other purpose necessary for the proper operation and maintenance of the schools in said district, it shall submit the question of such additional levy to the legal voters of said district, who are taxpaying freeholders therein, either at the regular annual election held in said district, or at a special election called for that purpose by the Board of Trustees of said district.

Section 1220. Where the question of making such additional levy is so submitted, notice thereof shall be given by posting the same at each school-house in said district, at least ten days before such election, or by publication thereof for a like period before such election in each newspaper published in said district, or by both such notice and publication.

Section 1221. The submission of said question shall expressly provide for what purpose such additional levy is to be made, and if authorized, the money raised by such additional levy shall be

used for that specified purpose only; provided, that if any balance remain on hand after the purpose for which said levy was made has been accomplished, such balance may, by vote of the Trustees of the said district, be transferred to any other fund of said district.

Section 1222. The ballots furnished electors at such election shall have printed thereon the following:

"Shall the Board of Trustees of this district be authorized to make a levy of (here insert the number) mills taxes in addition to the regular ten mill levy authorized by law for the purpose of (here insert the purpose for which the additional levy is to be made)?"

	For additional levy.
	Against additional levy.

The voters shall mark the ballot in the same manner as other ballots are marked under the election laws of this State. The election shall be held and the votes canvassed and returned as in other school elections. If the majority voting on the question are in favor of such additional levy, the Board of Trustees of said school district shall so certify to the Board of County Commissioners of the county in which said school district is situated, and said additional levy shall be made in the same manner that the levy for special taxes in said district is made.

Section 1223. Any person offering to vote may be challenged by any elector of the district, and the judges must thereupon administer to the person challenged an oath or affirmation, in substance as follows: "You do solemnly swear (or affirm) that you are a citizen of the United States; that you are twenty-one years of age; that you have resided in this State one year, and in this school district thirty days next preceding this election; that you are a taxpaying freeholder on the last assessment-roll for this school district; and that you have not voted this day. So help you God." Said oath shall be reduced to writing and signed by the person challenged and sworn to before one of the judges of election. Said oath or affirmation shall be returned with the ballots cast at such election. If the voter takes such oath or affirmation, his vote must be received; otherwise, it shall be rejected. Any person who shall swear falsely before any such judge of election shall be guilty of perjury, and shall be punished accordingly.

Section 1224. 1. The Board of School Trustees of any school district within this State is hereby vested with the power and authority to issue and negotiate, on the credit of the school district, coupon bonds for any one or more of the following purposes: (a) For the purpose of building, altering, enlarging, repairing, or acquiring by purchase one or more school-houses in said district; (b) for the purpose of furnishing and equipping one or more school-houses in said district; (c) for the purpose of purchasing land for

a school-house site; and (d) for the purpose of constructing or acquiring by purchase a teacherage in said district, and purchasing land necessary for the same.

2. The Board of School Trustees of any school district within this State shall, whenever a majority of the school trustees so decide, or when petitioned so to do by thirty per centum of the qualified electors of said district, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per cent. of the taxable property in said district, bearing a certain rate of interest not exceeding six per cent per annum, payable semi-annually and payable at a certain time, and redeemable at a certain time, for any one or more of the purposes specified in Paragraph one of this Section. Upon the passing of a resolution by the Board of Trustees, submitting to the electors of the district the question of the issuance of bonds, the clerk of such school district shall, not less than fifteen days before the date specified for such election, post notices in three public places in said district, and in incorporated cities and towns at least one notice in each ward, which notices must specify the time and place of election, the hours during which the polls will be opened, and the amount, the maximum rate of interest, time payable, time redeemable and purpose of the proposed bond issue. Such notice of election shall be substantially in the following form:

NOTICE OF SPECIAL BOND ELECTION.

Notice is hereby given by the undersigned Clerk of School District No..... of ..... County, State of Montana, that under and pursuant to a certain resolution, duly adopted at a meeting of the trustees of said school district, held on the..... day of....., A. D. 19..... an election of the qualified electors of School District No..... of ..... County, State of Montana, will be held at ..... on the..... day of....., A. D., 19..... for the purpose of voting upon the question of whether the Board of Trustees shall be authorized to issue coupon bonds to the amount of..... Dollars (\$.....) bearing interest at a rate not exceeding ..... per cent. per annum, payable semi-annually, said bonds to be payable in..... years, and redeemable in..... years, for the purpose of.....

The Polls will be open from..... o'clock....., until..... o'clock..... M.

Dated and posted this..... day of....., A. D., 19.....

Clerk of said School District No.....

3. Should the Trustees of any school district, in which bonds have heretofore been issued to any amount desire to submit to the electors of the district the question as to whether additional bonds shall be issued, they may do so, but no such bonds shall be issued unless a majority of all votes cast at any such election shall be cast in favor of such issue of additional bonds; and in no case shall the whole issue of bonds exceed the amount of three per cent of the taxable property within said school district.

Section 1225. 1. Such election shall be held in the manner prescribed for the election of school trustees.

2. The ballots shall be substantially in the following manner:

Shall Coupon Bonds be issued and sold to the amount of.....  
Dollars (\$.....), bearing not to exceed.....per cent.  
interest, payable in.....years and redeemable in.....  
years, for the purpose of (briefly state purpose or purposes of such  
bond issue.)

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BONDS—Yes.

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BONDS—No.

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The elector shall prepare his ballot by putting an "X" before "Bonds—Yes" in the vacant square provided therefor if he wishes to vote for the bonds, or before "Bonds—No" in the vacant square provided therefor if he wishes to vote against the bonds.

The foregoing sentence containing instructions for the marking of the ballot shall also be printed, typewritten, or written upon the ballot at the top thereof.

3. If a majority of votes cast at such election are in favor of the issuance of such bonds, the Board of School Trustees shall, within sixty days from the date of such election, pass a resolution providing for the issuance of such bonds and prescribing the form thereof. Such bonds shall bear the signature of the chairman of the Board of Trustees, and shall be signed by the Clerk of such school district, and the coupons attached to the bonds shall be signed by the said Chairman and Clerk; provided, a facsimile of the signatures of the signatures of the Chairman and Clerk may be affixed to the coupons only when so recited in the bonds, and the corporate seal of the school district shall be attached to each of the bonds. Each bond so issued shall be registered by the County Treasurer in a book provided for that purpose, which shall show the number and amount of each bond, its date, date payable, date redeemable, and the person to whom the same is issued or sold; and the said bonds shall be sold by the Trustees as hereinafter provided.

## BOND ISSUE, RESTRAINED.

Section 9040. No action can be brought for the purpose of restraining the issuance and sale of bonds by any school district, county, city or town in the State of Montana, or for the purpose of restraining the levy and collection of taxes for the payment of such bonds, after the expiration of sixty days from the date of the order authorizing the issuance and sale of such bonds, on account of any defect, irregularity or informality in giving notice or in holding the election upon the question of such bond issue.

## CORRUPT PRACTICES ACT.

Section 10773. No sums of money shall be paid, and no expenses authorized or incurred, by or on behalf of any candidate to be paid by him, except such as he may pay to the State for printing, as herein provided, in his campaign for nomination to any public office or position in this State, in excess of fifteen per cent of one year's compensation or salary of the office for which he is a candidate; provided, that no candidate shall be restricted to less than one hundred dollars in his campaign for such nomination. No sums of money shall be paid, and no expenses authorized or incurred, contrary to the provisions of this Act, for or on behalf of any candidate for nomination. For the purposes of this law, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, wife, partner, employer, employee, or fellow official or fellow employee of a corporation, shall be deemed to be that of the candidate himself.

Section 10774. No sums of money shall be paid and no expenses authorized or incurred by or on behalf of any candidate who has received the nomination to any public office or position in this State, except such as he may contribute towards payment for his political party's or independent statement in the pamphlet herein provided for, to be paid by him in his campaign for election, in excess of ten per cent of one year's salary or compensation of the office for which he is nominated; provided, that no candidate shall be restricted to less than one hundred dollars. No sum of money shall be paid and no expenses authorized or incurred by or on behalf of any political party or organization to promote the success of the principles or candidates of such party or organization, contrary to the provisions of this Act. For the purposes of this Act, the contribution, expenditure, or liability of a descendant, ascendant, brother, sister, uncle, aunt, nephew, niece, wife, partner, employer, employee, or fellow official or fellow employee of a corporation, shall be deemed to be that of the candidate himself.

Section 10775. Terms used in this Act shall be construed as follows, unless other meaning is clearly apparent from the language or context, or unless such construction is inconsistent with the manifest intent of the law:

"Persons" shall apply to any individual, male or female, and where consistent with collective capacity, to any committee, firm, partnership, club, organization, association, corporation, or other combination of individuals.

"Candidate" shall apply to any person whose name is printed on an official ballot for public office, or whose name is expected to be or has been presented for public office, with his consent, for nomination or election.

"Political agent" shall apply to any person who, upon request or under agreement, receives or disburses money in behalf of a candidate.

"Political committee" shall apply to every combination of two or more persons who shall aid or promote the success or defeat of a candidate, or a political party or principle, and the provisions of law relating thereto shall apply to any firm or partnership, to any corporation, and to any club, organization, association, or other combination of persons, whether incorporated or not, with similar purposes, whether primary or incidental.

"Public office" shall apply to any national, State, county or city office to which a salary attaches and which is filled by the voters, as well as to the office of Presidential Elector, United States Senator, or presiding officer of either branch of the Legislature.

"Give," "provide," "expend," "contribute," "receive," "ask," "solicit," and like terms with their corresponding nouns, shall apply to money, its equivalent, or any other valuable thing; shall include the promise, advance deposit, borrowing or loan thereof, and shall cover all or any part of a transaction, whether it be made directly or indirectly.

None of the provisions of this Act shall be construed as relating to the rendering of services by speakers, writers, publishers, or others, for which no compensation is asked or given; nor to prohibit expenditure by committees of political parties or organizations for public speakers, music, halls, lights, literature, advertising, office rent, printing, postage, clerk hire, challengers or watchers at the polls, traveling expenses, telegraphing or telephoning, or making of poll-lists.

Section 10776. Every candidate for nomination or election to public office, including candidates for the office of Senator of the United States, shall, within fifteen days after the election at which he was a candidate, file with the Secretary of State, if a candidate for Senator of the United States, Representative in Congress, or for any State or district office in a district composed of one or more counties, or for members of the Legislative Assembly from a district composed of more than one county, but with the County Clerk for legislative districts composed of not more than one county, and for county and precinct offices, and with the City Clerk, Auditor, or Recorder, of the town or city in which he resides, if he was a candidate for a town, city, or ward office, an itemized sworn statement setting forth in detail all the moneys contributed, expended, or promised by him to aid and promote his nomination or election, or both, as the case may be, and for the election of his party candidates, and all existing unfulfilled promises of every character, and all liabilities remaining uncancelled and in force at the time such statement is made, whether such expenditures, promises, and liabilities were made or incurred before, during, or after such election. If no money or other valuable thing was given, paid, expended, contributed, or promised, and no unfulfilled liabilities were

incurred by a candidate for public office to aid or promote his nomination or election, or the election of his party candidates, he shall file a statement to that effect within fifteen days after the election at which he was a candidate. Any candidate who shall fail to file such a statement shall be fined twenty-five dollars for every day on which he was in default, unless he shall be excused by the court. Fifteen days after any such election the Secretary of State, or County Clerk, City Clerk, Auditor or Recorder, as the case may be, shall notify the County Attorney of any failure to file such a statement on the part of any candidate, and within ten days thereafter such prosecuting officer shall proceed to prosecute said candidate for such offense.

Section 10777. Every political committee shall have a treasurer, who is a voter, and shall cause him to keep detailed accounts of all its receipts, payments, and liabilities. Similar accounts shall be kept by every person, who in the aggregate receives or expends money or incurs liabilities to the amount of more than fifty dollars for political purposes, and by every political agent and candidate. Such accounts shall cover all transactions in any way affecting or connected with the political canvass, campaign, nomination, or election concerned. Every person receiving or expending money or incurring liability by authority or in behalf of or to promote the success or defeat of such committee, agent, candidate, or other person or political party or organization, shall on demand, and in any event within fourteen days after such receipt, expenditure, or incurrence of liability, give such treasurer, agent, candidate, or other person on whose behalf such expense or liability was incurred detailed account thereof, with proper vouchers. Every payment, except payments less in the aggregate than five dollars to any person, shall be vouched for by a receipted bill stating the particulars of expense. Every voucher, receipt, and account hereby required shall be a part of the accounts and files of such treasurer, agent, candidate, or other person, and shall be preserved by the public officer with whom it shall be filed for six months after the election to which it refers. Any person not a candidate for any office or nomination who expends money or value to an amount greater than fifty dollars in any campaign for nomination or election, to aid in the election or defeat of any candidate or candidates, or party ticket, or measure before the people, shall, within ten days after the election in which said money or value was expended, file with the Secretary of State in the case of a measure voted upon by the people, or of State, or district offices for districts composed of one or more counties, or, with the County Clerk for county offices, and with the City Clerk, Auditor, or Recorder for municipal offices, an itemized statement of such receipts and expenditures and vouchers for every sum paid in excess of five dollars, and shall at the same time deliver to the candidate or treasurer of the political organization whose success or defeat he has sought to promote, a duplicate of such statement and a copy of such vouchers. The books of account of every treasurer of any political party committee, or organization, during an election campaign, shall be open at all reasonable office hours to the inspection of the treasurer and chairman of an opposing political party or organiza-

tion for the same electoral district; and his right of inspection may be enforced by writ of mandamus by any court of competent jurisdiction.

Section 10778. The Secretary of State shall, at the expense of the State, furnish to the County Clerk, and to the City and Town Clerks, Auditors, and Recorders, copies of this Act as a part of the election laws. In the filing of a nomination petition or certificate of nomination, the Secretary of State, in the case of State and district offices for districts composed of one or more counties, and County Clerks for county offices, and the City and Town Clerks, Auditors, or Recorders for municipal offices, shall transmit to the several candidates, and to the treasurers of political committees, and to political agents, as far as they may be known to such officer, copies of this Act, and also to any other person required to file a statement such copies shall be furnished upon application therefor. Upon his own information, or at the written request of any voter, said Secretary of State shall transmit to any other person believed by him or averred to be a candidate, or who may otherwise be required to make a statement, a copy of this Act.

Section 10779. The several officers with whom statements are required to be filed shall inspect all statements of accounts and expenses relating to nominations and elections filed with them within ten days after the same are filed; and if, upon examination of the official ballot, it appears that any person has failed to file a statement as required by law, or if it appears to any such officer that the statement filed with him does not conform to law, or upon complaint in writing by a candidate or by a voter that a statement filed does not conform to law or to the truth, or that any person has failed to file a statement which he is by law required to file, said officer shall forthwith in writing notify the delinquent person. Every such complaint filed by a citizen or candidate shall state in detail the grounds of objection, shall be sworn to by the complainant, and shall be filed with the officer within sixty days after the filing of the statement or amended statement. Upon the written request of a candidate or any voter, filed within sixteen days after any convention, primary, or nominating election, said Secretary of State, County Clerk, City or Town Clerk, Auditor, or Recorder, as the case may be, shall demand from any specified person or candidate a statement of all his receipts, and from whom received, disbursements and liabilities in connection with or in any way relating to the nomination or election concerned, whether it is an office to which a salary or compensation is attached or not, and said person shall thereupon be required to file such statement and to comply with all the provisions relating to statements herein contained. Whoever makes a statement required by this Act shall make oath attached thereto that it is in all respects correct, complete and true, to the best of his knowledge and belief, and said verification shall be substantially the form herein provided.

Section 10780. Upon the failure of any person to file a statement within ten days after receiving notice under the preceding section, or if any statement filed as above discloses any violation of any provisions of this Act relating to corrupt practices in elections, or in any other provision of the election laws, the Secretary

of State, the County Clerk, or the City Clerk, Auditor, or Recorder, as the case may be, shall forthwith notify the County Attorney of the county where said violation occurred, and shall furnish him with copies of all papers relating thereto, and said County Attorney shall, within sixty days thereafter, examine every such case, and if the evidence seems to him to be sufficient under the provisions of this Act, he shall, in the name of the State, forthwith institute such civil or criminal proceedings as may be appropriate to the facts.

Section 10781. The District Court of the county in which any statement of accounts and expenses relating to nominations and elections should be filed, unless herein otherwise provided, shall have exclusive original jurisdiction of all violations of this Act, and may compel any person who fails to file such a statement as required by this Act, or who files a statement which does not conform to the provisions of this Act in respect to its truth, sufficiently in detail, or otherwise, to file a sufficient statement, upon the application of the Attorney General or of the County Attorney, or the petition of a candidate or of any voter. Such petition shall be filed in the District Court within sixty days after such election if the statement was filed within fifteen days required, but such a petition may be filed within thirty days after any payment not included in the statement so filed.

Section 10782. All statements shall be preserved for six months after the election to which they relate, shall be public records subject to public inspection, and it shall be the duty of the officers having custody of the same to give certified copies thereof in like manner as of other public records. The totals of each statement filed with him, with the name of the person or candidate filing it, shall be published in the next annual report of the Secretary of State, the County Clerk, or the City Clerk, Auditor, or Recorder, as the case may be.

Section 10783. No person shall make a payment of his own money or of another person's money to any other person in connection with a nomination or election in any other name than that of the person who in truth supplies such money; nor shall any person knowingly receive such payment, or enter, or cause the same to be entered in his accounts or records in another name than that of the person by whom it was actually furnished; provided, if the money be received from the treasurer of any political organization, it shall be sufficient, to enter the same as received from said treasurer.

Section 10784. No person shall, in order to aid or promote his nomination or election, directly or indirectly, himself or through any other person, promise to appoint another person, or promise to secure or aid in securing the appointment, nomination, or election of another person to any public or private position or employment, or to any position of honor, trust, or emolument, except that he may publicly announce or define what is his choice or purpose in relation to any election in which he may be called to take part, if elected, and if he is a candidate for nomination or election as a member of the Legislative Assembly, he may pledge himself to vote for the people's choice for United States Senator, or state what his action will be on such vote.

Section 10785. No holder of a public position or office, other than an office filled by the voters shall pay or contribute to aid or promote the nomination or election of any other person to public office. No person shall invite, demand, or accept payment or contribution from such holder of a public position or office for campaign purposes.

Section 10786. No holder of a public position, other than an office filled by the voters, shall be a delegate to a convention for the election district that elects the officer or board under whom he directly or indirectly holds such position, nor shall he be a member of a political committee for such district.

Section 10787. No person shall invite, offer, or effect the transfer of any convention credential in return for any payment of money or other valuable thing.

Section 10788. No person shall pay, or promise to reward another, in any manner or form, for the purpose of inducing him to be or refrain from or cease being a candidate, and no person shall solicit any payment, promise, or reward from another for such purpose.

Section 10789. No person shall demand, solicit, ask, or invite any payment or contribution for any religious, political, charitable, or other cause or organization supposed to be primarily or principally for the public good, from a person who seeks to be or has been nominated or elected to any office; and no such candidate or elected person shall make any such payment or contribution if it shall be demanded or asked during the time he is a candidate for nomination or election to or an incumbent of any office. No payment or contribution for any purpose shall be made a condition precedent to the putting of a name on any caucus or convention ballot or nomination paper or petition, or to the performance of any duty imposed by law on a political committee. No person shall demand, solicit, ask, or invite any candidate to subscribe to the support of any club organization, to buy tickets to any entertainment or ball, or to subscribe for or pay for space in any book, program, periodical, or other publication; if any candidate shall make any such payment or contribution with apparent hope or intent to influence the result of the election he shall be guilty of a corrupt practice; but this section shall not apply to the soliciting of any business advertisement for insertion in a periodical in which such candidate was regularly advertising prior to his candidacy, nor to ordinary business advertising, nor to his regular payment to any organization, religious, charitable, or otherwise, of which he may have been a member, or to which he may have been a contributor for more than six months before his candidacy, nor to ordinary contributions at church services.

Section 10790. No corporation, and no person, trustee, or trustees owning or holding the majority of the stock of a corporation carrying on the business of a bank, savings bank, co-operative bank, trust, trustee, surety, indemnity, safe deposit, insurance, railroad, street-railway, telegraph, telephone, gas, electric light, heat, power, canal, aqueduct, water, cemetery, or crematory company, or any company having the right to take or condemn land, or to exercise franchises in public ways granted by the State or by any county, city, or town, shall pay or contribute in order to aid, promote, or prevent

the nomination or election of any person, or in order to aid or promote the interests, success, or defeat of any political party or organization. No person shall solicit or receive such payment or contribution from such corporation or such holders of a majority of such stock.

Section 10791. Any person or candidate who shall, either by himself or by any other person, either before or after an election, or while such person or candidate is seeking a nomination or election, directly or indirectly, give or provide, or pay, wholly or in part, the expenses of giving or providing any meat or drink, or other entertainment or provisions, clothing, liquors, cigars, or tobacco, to or for any person for the purpose of or with intent or hope to influence that person or any other person to give or refrain from giving his vote at such election to or for any candidate or political party ticket, or measure before the people, or on account of such persons, or any other person, having voted or refrained from voting for any candidate or the candidates of any political party or organization or measure before the people, or being about to vote or refrain from voting at such election, shall be guilty of treating. Every elector who accepts or takes any such meat, drink, entertainment, provisions, clothing, liquors, cigars, or tobacco shall also be guilty of treating; and such acceptance shall be ground of challenge to his vote and of rejecting his vote on a contest.

Section 10792. Whenever any person's right to vote shall be challenged and he has taken the oath prescribed by the statutes, and if it is at a nominating election, then it shall be the duty of the clerks of election to write in the poll-books at the end of such person's name the words "challenged and sworn," with the name of the challenger. Thereupon the chairman of the board of judges shall write upon the back of the ballot offered by such challenged voter the number of his ballot, in order that the same may be identified in any future contest of the results of the election, and be cast out if it shall appear to the court to have been for any reason wrongfully or illegally voted for any candidate or on any question, and such marking of the name of such challenged voter, nor the testimony of any judge or clerk of election in reference thereto, or in reference to the manner in which said challenged person voted, if said testimony shall be given in the course of any contest, investigation, or trial wherein the legality of the vote of such person is questioned for any reason, shall not be deemed a violation of Section 10753 of this Code.

Section 10793. Every person who shall, directly or indirectly, by himself or any other person in his behalf, make use of or threaten to make use of any force, coercion, violence, restraint, or undue influence, or inflict or threaten to inflict, by himself or any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting for any candidate, or the ticket of any political party, or any measure before the people, or any person who, being a minister, preacher, or priest, or any officer of any church, religious or other corporation or organization, otherwise than by public speech or print, shall urge, persuade, or command any voter to vote or refrain from voting for or against any candidate or political party ticket or measure submitted to the people, for or on account of his religious duty, or the interest of any

corporation, church, or other organization, or who shall, by abduction, duress, or any fraudulent contrivance, impede or prevent the free exercise of the franchise by any voter at any election, or shall thereby compel, induce, or prevail upon any elector to give or to refrain from giving his vote at any election, shall be guilty of undue influence, and shall be punished as for corrupt practice.

Section 10794. Any candidate who, before or during any election campaign, makes any bet or wager of anything of pecuniary value, or in any manner becomes a party to any such bet or wager on the result of the election in his electoral district, or in any part thereof, or on any event or contingency relating to any pending election, or who provides money or other valuables to be used by any person in betting or wagering upon the results of any impending election, shall be guilty of a corrupt practice. Any person who, for the purpose of influencing the result of any election, makes any bet or wager of anything of pecuniary value on the result of such election in his electoral district, or any part thereof, or of any pending election, or on any event or contingency relating thereto, shall be guilty of a corrupt practice, and in addition thereto any such act shall be ground of challenge against his right to vote.

Section 10795. Any person shall be deemed guilty of the offense of personation who at any election applies for a ballot in the name of some other person, whether it be that of a person living or dead, or of a fictitious person, or, who having voted once at an election, applies at the same election for a ballot in his own name; and on conviction thereof such person shall be punished by imprisonment in the penitentiary at hard labor for not less than one nor more than three years.

Section 10796. Any person shall be guilty of a corrupt practice, within the meaning of this Act, if he expends any money for election purposes contrary to the provisions of any statute of this State, or if he is guilty of treating, undue influence, personation, the giving or promising to give, or offer of any money or valuable thing to any elector, with intent to induce such elector to vote for or to refrain from voting for any candidate for public office, or the ticket of any political party or organization, or any measure submitted to the people, at any election, or to register or refrain from registering as a voter at any State, district, county, city, town, village, or school district election for public officers or on public measures. Such corrupt practice shall be deemed to be prevalent when instances thereof occur in different election districts similar in character and sufficient in number to convince the court before which any case involving the same may be tried that they were general and common or were pursuant to a general scheme or plan.

Section 10797. It shall be unlawful for any person to pay another for any loss or damage due to attendance at the polls, or in registering, or for the expense of transportation to or from the polls. No person shall pay for personal service to be performed on the day of a caucus, primary, convention, or any election, for any purpose connected therewith, tending in any way, directly or indirectly, to affect the result thereof, except for the hiring of persons whose sole duty is to act as challengers and watch the count of official ballots. No person shall buy, sell, give or, provide any political badge, button,

or other insignia to be worn at or about the polls on the day of any election, and no such political badge, button or other insignia shall be worn at or about the polls on any election day.

Section 10798. No publisher of a newspaper or other periodical shall insert, either in its advertising or reading columns, any paid matter which is designated or tends to aid, injure, or defeat any candidate or any political party or organization, or measure before the people, unless it is stated therein that it is a paid advertisement, the name of the chairman or secretary, or the names of the other officers of the political or other organization inserting the same, or the name of some voter who is responsible therefor, with his residence and the street number thereof, if any appear in such advertisement in the nature of a signature. No person shall pay the owner, editor, publisher, or agent of any newspaper or other periodical to induce him to editorially advocate or oppose any candidate for nomination or election, and no such owner, editor, publisher, or agent shall accept such payment. Any person who shall violate any of the provisions of this section shall be punished as for a corrupt practice.

Section 10799. It shall be unlawful for any person at any place on the day of any election to ask, solicit, or in any manner try to induce or persuade any voter on such election day to vote for or refrain from voting for any candidate, or the candidate or ticket of any political party or organization, or any measure submitted to the people, and upon conviction thereof he shall be punished by fine of not less than Five Dollars nor more than One Hundred Dollars for the first offense, and for the second and each subsequent offense occurring on the same or different election days, he shall be punished by fine as aforesaid, or by imprisonment in the county jail for not less than five nor more than thirty days, or by both such fine and imprisonment.

Section 10800. It shall be unlawful to write, print, or circulate through the mails or otherwise any letter, circular, bill, placard, or poster relating to any election or to any candidate at any election, unless the same shall bear on its face the name and address of the author, and of the printer and publisher thereof; and any person writing, printing, publishing, circulating, posting, or causing to be written, printed, circulated, posted, or published any such letter, bill, placard, circular, or poster as aforesaid, which fails to bear on its face the name and address of the author and of the printer or publisher, shall be guilty of an illegal practice, and shall on conviction thereof be punished by a fine of not less than Ten Dollars nor more than One Thousand Dollars. If any letter, circular, poster, bill, publication, or placard shall contain any false statement or charges reflecting on any candidate's character, morality, or integrity, the author thereof, and every person printing or knowingly assisting in the circulation, shall be guilty of political criminal libel, and upon conviction thereof shall be punished by imprisonment in the penitentiary for not less than one nor more than three years. If the person charged with such crime shall prove on his trial that he had reasonable ground to believe such charge was true, and did believe it was true, and that he was not actuated by malice in making such publication, it shall be a sufficient defense to such charge. But in that event, and as a part of such

defense, the author and printer or publisher, or other person charged with such crime, shall also prove that, at least fifteen days before such letter, circular, poster, bill, or placard containing such false statement or statements was printed or circulated, he or they caused to be served personally and in person upon the candidate to whom it relates a copy thereof in writing, and calling his attention particularly to the charges contained therein, and that, before printing, publishing, or circulating such charges, he received and read any denial, defense, or explanation, if any, made or offered to him in writing by the accused candidate within ten days after the service of such charge upon the accused person.

Section 10801. The name of a candidate chosen at a primary nominating election, or otherwise, shall not be printed on the official ballot for the ensuing election, unless there has been filed by or on behalf of said candidate the statements of accounts and expenses relating to nominations required by this Act, as well as a statement by his political agent and by his political committee or committees in his behalf, if his statement discloses the existence of such agent, committee, or committees. The officer or board entrusted by law with the preparation of the official ballots for any election shall, as far as practicable, warn candidates of the danger of the omission of their names by reason of this provision, but delay in making any such statement beyond the time prescribed shall not preclude its acceptance or prevent the insertion of the name on the ballot, if there is reasonable time therefor after the receipt of such statements. Any such vacancy on the ballot shall be filled by the proper committee of his political party in the manner authorized by law, but not by the use of the name of the candidate who failed to file such statements. No person shall receive a certificate of election until he shall have filed the statements required by this Act.

Section 10802. It shall be unlawful for any person to accept, receive or pay money or any valuable consideration for becoming or refraining from becoming a candidate for nomination or election, or by himself or in combination with any other person or persons to become a candidate for the purpose of defeating the nomination or election of any other person, and not with a bona-fide intent to obtain the office. Upon complaint made to any district court, if the Judge shall be convinced that any person has sought the nomination or seeks to have his name presented to the voters as a candidate for nomination by any political party, for any mercenary or venal consideration or motive, and that his candidacy for the nomination is not in good faith, the Judge shall forthwith issue his writ of injunction restraining the officer or officers whose duty it is to prepare the official ballots for such nominating election from placing the name of such person thereon as a candidate for nomination to any office. In addition thereto, the court shall direct the County Attorney to institute criminal proceedings against such person or persons for corrupt practice, and upon conviction thereof he and any person or persons combining with him shall be punished by a fine of not more than One Thousand Dollars, or imprisonment in the county jail for not more than one year.

Section 10803. Where, upon the trial of any action or proceeding under the provisions of this Act for the contest of the right of any person declared nominated or elected to any office, or to annul or set aside such nomination or election, or to remove a person from his office, it appears from the evidence that the offense complained of was not committed by the candidate, or with his knowledge or consent, or was committed without his sanction or connivance, and that all reasonable means for preventing the commission of such offense at such election were taken by and on behalf of the candidate, or that the offense or offenses complained of were trivial, unimportant, and limited in character, and that in all other respects his participation in the election was free from such offense or illegal acts, or that any act or omission of the candidate arose from inadvertence or from accidental miscalculation, or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith, and under the circumstances it seems to the court to be unjust that the said candidate shall forfeit his nomination or office, or be deprived of any office of which he is the incumbent, then the nomination or election of such candidate shall not by reason of such offense or omission complained of be void, nor shall the candidate be removed from or deprived of his office.

Section 10804. If, upon the trial of any action or proceeding under the provisions of this Act, for the contesting of the right of any person declared to be nominated to an office, or elected to an office, or to annul and set aside such election, or to remove any person from his office, it shall appear that such person was guilty of any corrupt practice, illegal act, or undue influence, in or about such nomination or election, he shall be punished by being deprived of the nomination or office, as the case may be, and the vacancy therein shall be filled in the manner provided by law. The only exception to this judgment shall be that provided in the preceding section of this act. Such judgment shall not prevent the candidate or officer from being proceeded against by indictment or criminal information for any such act or acts.

Section 10805. Any action to contest the right of any person declared elected to an office, or to annul and set aside such election, or to remove from or deprive any person of an office of which he is the incumbent, for any offense mentioned in this Act, must, unless a different time be stated, be commenced within forty days after the return day of the election at which such offense was committed, unless the ground of the action or proceeding is for the illegal payment of money or other valuable thing subsequent to the filing of the statements prescribed by this Act, in which case the action or proceeding may be commenced within forty days after the discovery by the complainant of such illegal payment. A contest of the nomination or office of Governor or Representative or Senator in Congress must be commenced within twenty days after the declaration of the result of the election, but this shall not be construed to apply to any contest before the Legislative Assembly.

Section 10806. An application for filing a statement, payment of a claim or correction of an error or false recital in a statement filed or an action or proceeding to annul and set aside the elec-

tion of any person declared elected to an office, or to remove or deprive any person of his office for an offense mentioned in this Act, or any petition to excuse any person or candidate in accordance with the power of the court to excuse as provided in Section 10803 of this Code, must be made or filed in the district court of the county in which the certificate of his nomination as a candidate for the office to which he is declared nominated or elected is filed, or in which the incumbent resides.

Section 10807. A candidate nominated or elected to an office, and whose nomination or election thereto has been annulled and set aside for any offense mentioned in this Act, shall not, during the period fixed by law as the term of such office, be elected, or appointed to fill any office or vacancy in any office or position of trust, honor, or emolument under the laws of the State of Montana, or of any municipality therein. Any appointment or election to any office or position of trust, honor, or emolument made in violation of or contrary to the provisions of this Act shall be void.

Section 10808. If any County Attorney shall be notified by any officer or other person of any violation of any of the provisions of this Act within his jurisdiction, it shall be his duty forthwith to diligently inquire into the facts of such violation, and if there is reasonable ground for instituting a prosecution, it shall be the duty of such County Attorney to file a complaint or information in writing, before a court of competent jurisdiction, charging the accused person with such offense; if any County Attorney shall fail or refuse to faithfully perform any duty imposed upon him by this Act, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit his office. It shall be the duty of the County Attorney, under penalty of forfeiture of his office, to prosecute any and all persons guilty of any violation of the provisions of this Act, the penalty of which is fine or imprisonment, or both, or removal from office.

Section 10809. If, in any case of a contest on the ground of illegal votes, it appears that another person than the one returned has the highest number of legal votes, after the illegal votes have been eliminated, the court must declare such person nominated or elected, as the case may be.

Section 10810. Any elector of the State, or of any political or municipal division thereof, may contest the right of any person to any nomination or office for which such elector has the right to vote, for any of the following causes:

1. On the ground of deliberate, serious, and material violation of any of the provisions of this Act, or of any other provision of the law relating to nominations or elections.
2. When the person whose right was contested was not, at the time of the election, eligible to such office.
3. On account of illegal votes or an erroneous or fraudulent count or canvass of votes.

Section 10811. Nothing in the third ground of contest specified in the preceding section is to be so construed as to authorize a nomination or election to be set aside on account of illegal votes, unless it appear, either that the candidate or nominee whose

right is contested had knowledge of or connived at such illegal votes, or that the number of illegal votes given to the person whose right to the nomination or office is contested, if taken from him, would reduce the number of his legal votes below the number of votes given to some other person for the same nomination or office, after deducting therefrom the illegal votes which may be shown to have been given to such other person.

Section 10812. When the reception of illegal votes is alleged as a cause of contest, it shall be sufficient to state generally that in one or more specified voting precincts illegal votes were given to the person whose nomination or election is contested, which, if taken from him, will reduce the number of his legal votes below the number of legal votes given to some other person for the same office; but no testimony shall be received of any illegal votes, unless the party contesting such election deliver to the opposite party, at least three days before such trial, a written list of the number of illegal votes, and by whom given, which he intends to prove on such trial. This provision shall not prevent the contestant from offering evidence of illegal votes, not included in such statement, if he did not know and by reasonable diligence was unable to learn of such additional illegal votes, and by whom they were given, before delivering such written list.

Section 10813. Any petition contesting the right of any person to a nomination or election shall set forth the name of every person whose election is contested, and the grounds of the contest, and shall not thereafter be amended, except by leave of the court. Before any proceeding thereon the petitioners shall give bond in the State in such sum as the court may order, not exceeding Two Thousand Dollars, with not less than two sureties, who shall justify in the manner required of sureties on bail-bonds, conditioned to pay all costs, disbursements, and attorney's fees that may be awarded against him if he shall not prevail. If the petitioner prevails, he may recover his costs, disbursements, and reasonable attorney's fees against the contestee. But costs, disbursements, and attorney's fees, in all such cases, shall be the discretion of the court, and in case judgment is rendered against the petitioner, it shall also be rendered against the sureties on the bond. On the filing of any such petition, the clerk shall immediately notify the Judge of the court, and issue a citation to the persons whose nomination or office is contested, citing them to appear and answer, not less than three nor more than seven days after the date of filing the petition, and the court shall hear said cause, and every such contest shall take precedence over all other business on the court docket, and shall be tried and disposed of with all convenient dispatch. The court shall always be deemed in session for the trial of such cases.

Section 10814. The petitioner (contestant) and the contestee may appear and produce evidence at the hearing, but no person, other than the petitioner and contestee, shall be made a party to the proceedings on such petition; and no person, other than said parties and their attorneys, shall be heard thereon, except by order of the court. If more than one petition is pending, or the election of more than one person is contested, the court may, in its discretion, order the cases to be heard together, and may apportion

the costs, disbursements, and attorney's fees between them, and shall finally determine all questions of law and fact, save only that the Judge may, in his discretion, impanel a jury to decide on questions of fact. (In the case of a contested nomination or election for Senator or Representative in the Legislative Assembly, or for Senator or Representative in Congress, the court shall forthwith certify its findings to the Secretary of State, to be by him transmitted to the presiding officer of the body in question.) In the case of other nominations or elections, the court shall forthwith certify its decision to the board or official issuing certificates of nomination or election, which board or official shall thereupon issue certificates of nomination or election to the person or persons entitled thereto by such decision. If judgment of ouster against a defendant shall be rendered, said judgment shall award the nomination or office to the person receiving next the highest number of votes, unless it shall be further determined in the action, upon appropriate pleading and proof by defendant, that some act has been done or committed which would have been ground in a similar action against such person, had he received the highest number of votes for such nomination or office, for a judgment of ouster against him; and if it shall be so determined at the trial, the nomination or office shall be by the judgment declared vacant, and shall thereupon be filled by a new election, or by appointment, as may be provided by law regarding vacancies in such nomination or office.—Note: So much of the above section as is inclosed in brackets was held unconstitutional in State ex rel Smith vs. District Court, 50 Mont. 134.

Section 10815. In like manner as prescribed for the contesting of an election, any corporation organized under the laws of or doing business in the State of Montana may be brought into court on the ground of deliberate, serious, and material violation of the provisions of this Act. The petition shall be filed in the district court in the county where said corporation has its principal office, or where the violation of law is averred to have been committed. The court, upon conviction of such corporation, may impose a fine of not more than Ten Thousand Dollars, or may declare a forfeiture of the charter and franchises of the corporation, if organized under the laws of this State, or if it be a foreign corporation may enjoin said corporation from further transacting business in this State, or by both such fine and forfeiture, or by both such fine and injunction.

Section 10816. Whoever violates any provisions of this Act, the punishment for which is not specifically provided by law, shall on conviction thereof be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than Five Thousand Dollars, or by both such fine and imprisonment.

Section 10817. Proceedings under this Act shall be advanced on the docket upon request of either party for speedy trial, but the court may postpone or continue such trial if the ends of justice may be thereby more effectually secured, and in case of such continuance or postponement, the court may impose costs in its discretion as a condition thereof. No petition shall be dismissed without the consent of the County Attorney, unless the same shall be dismissed by the court. No person shall be excused from testifying or

producing papers or documents on the ground that his testimony or the production of papers or documents will tend to criminate him; but no admission, evidence or paper made or advanced or produced by such person shall be offered or used against him in any civil or criminal prosecution, or any evidence that is the direct result of such evidence or information that he may have so given, except in a prosecution for perjury committed in such testimony.

Section 10818. A petition or complaint filed under the provisions of this Act shall be sufficient if it is substantially in the following form:

In the District Court of the.....Judicial District,  
for the County of....., State of Montana.

A. B. (or A. B. and C. D.), Contestants, vs. E. F., Contestee.

The petition of contestant (or contestants) above named alleges:  
That an election was held (in the State, District, County, or City  
of.....) on the.....day of  
....., A. D. 19....., for the (nomination of a candi-  
date for) (or election of a) (state the office.)

That.....and.....were candi-  
dates at said election, and the Board of Canvassers has returned the  
said.....as being duly nominated( or elected)  
at said election.

That Contestant A. B. voted or had a right to vote, (as the  
case may be) at said election (or claims to have had a right to be  
returned as the nominee or officer elected or nominated at said  
election, or was a candidate at said election, as the case may be),  
and said Contestant C. D. (here state in like manner the right of  
each contestant.)

And said contestant (or contestants) further allege (here state  
facts and grounds on which the contestants rely.)

Wherefore, your contestants pray that it may be determined by  
the court that said....., was not duly  
nominated (or elected), and that said election was void (or that  
the said A. B. or C. D., as the case may be) was duly nominated (or  
elected), and for such other and further relief as to the court may  
seem just and legal in the premises.

Said complaint shall be verified by the affidavit of one of the  
petitioners in the manner required by law for the verification of  
complaints in civil cases.

Section 10819. The statement of expenses required from candidates and others by this Act shall be in substantially the following form:

State of Montana, County of.....ss.

I, ....., having been a candidate (or ex-  
pended money) at the election for the (State), (District), (County),

(City) of ..... on the ..... day of ..... A. D. 19....., being first duly sworn, on oath do say: That I have carefully examined and read the returns of my election expenses and receipts hereto attached, and to the best of my knowledge and belief that return is full, correct, and true.

And I further state on oath that, except as appears from this return, I have not, and to the best of my knowledge and belief no person, nor any club, society, or association has on my behalf, whether authorized by me or not, made any payment, or given, promised, or offered any reward, office, employment, or position, public or private, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said nomination or election.

And I further state on oath that, except as specified in this return, I have not paid any money, security or equivalent for money, nor has any money or equivalent for money, to my knowledge or belief, been paid, advanced, given, or deposited by any one to or in the hands of myself or any other person for my nomination or election, or for the purpose of paying any expenses incurred on my behalf on account or in respect of the conduct or management of the said election.

And I further state on oath that I will not, except so far as I may be permitted by law, at any future time make or be a party to the making or giving of any payment, reward, office, position, or employment, or valuable consideration, for the purpose of defraying any such expenses or obligations as herein mentioned for or on account of my nomination or election, or provide or be a party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expense.

(Signature of Affiant).....

Subscribed and sworn to before me by the above-named....., on the ..... day of ..... A. D. 19.....

Attached to said affidavit shall be a full and complete account of the receipts, contributions, and expenses of said affiant, and of his supporters of which he has knowledge, with numbered vouchers for all sums and payments for which vouchers are required as to all money expended by affiant. The affidavit and account of the treasurer of any committee or any political party or organization shall be, as nearly as may be, in the same form, and so also shall be the affidavit of any person who has received or expended money in excess of the sum of Fifty Dollars to aid in securing the nomination or election or defeat of any candidate, or of any political party or organization, or of any measure before the people.

Section 10820. Any person who shall knowingly make any false oath or affidavit where an oath or affidavit is required by this law shall be deemed guilty of perjury and punished accordingly.

## CRIMES AGAINST ELECTIVE FRANCHISE.

Section 10747. Every person charged with the performance of any duty, under the provisions of any law of this State relating to elections, or the registration of the names of electors, or the canvassing of the returns of election, who wilfully neglects or refuses to perform such duty, or who, in his official capacity knowingly and fraudulently acts in contravention or violation of any of the provisions of such laws, is, unless a different punishment for such acts or omissions is prescribed by this Code, punishable by fine not exceeding One Thousand Dollars, or by imprisonment in the State prison not exceeding five years, or both.

Section 10748. Every person who wilfully causes, procures or allows himself to be registered in the official register of any election district of any county, knowing himself not to be entitled to such registration, is punishable by a fine not exceeding One Thousand Dollars, or by imprisonment in the county jail or State prison not exceeding one year, or both. In all cases where, on the trial of the person charged with any offense under the provisions of this section, it appears in evidence that the accused stands registered in such register of any county, without being qualified for such registration, the court must order such registration to be cancelled.

Section 10749. Every person not entitled to vote who fraudulently votes, and every person who votes more than once at any one election, or changes any ballot after the same has been deposited in the ballot box, or adds, or attempts to add, any ballot to those legally polled at any election, either by fraudulently introducing the same into the ballot box, before or after the ballots therein have been counted; or adds to, or mixes with, or attempts to add to or mix with, the ballots lawfully polled, other ballots, while the same are being counted or canvassed, or at any other time, with intent to change the result of such election; or carries away or destroys, or attempts to carry away or destroy, any poll-lists, check lists, or ballots, or ballot box, for the purpose of breaking up or invalidating such election, or wilfully detains, mutilates or destroys any election returns, or in any manner so interferes with the officers holding such election or conducting such canvass, or with the voters lawfully exercising their rights of voting at such election, as to prevent such election or canvass from being fairly held and lawfully conducted is guilty of a felony.

Section 10750. Every person not entitled to vote, who fraudulently attempts to vote or register, or who, being entitled to vote, attempts to register or vote more than once at any election, is guilty of a misdemeanor.

Section 10751. Every person who procures, aids, assists, counsels, or advises another to register or give or offer his vote at any election, knowing that the person is not entitled to vote or register, is guilty of a misedemeanor.

Section 10752. Every officer or clerk of election who aids in changing or destroying any poll list or check list, or placing any ballots in the ballot box, or taking any therefrom, or adds, or attempts to add, any ballots to those legally polled at such election, either by fraudulently introducing the same into the ballot-box before

or after the ballots therein have been counted, or adds to or mixes with, or attempts to add to or mix with, the ballots polled, any other ballots, while the same are being counted or canvassed, or at any other time with intent to change the results of such election, or allows another to do so, when in his power to prevent it, or carries away or destroys, or knowingly allows another to carry away or destroy, any poll list, check list, ballot box, or ballots lawfully polled, is guilty of a felony.

Section 10753. Every judge or clerk of an election who, previous to putting the ballot of an elector in the ballot box, attempts to find out any name on such ballot, or who opens or suffers the folded ballot of any elector which has been handed in, to be opened or examined previous to putting the same into the ballot box, or who makes or places any mark or device on any folded ballot, with the view to ascertain the name of any person for whom the elector has voted, is punishable by imprisonment in the county jail for a period of six months, or in the State prison not exceeding two years, or by fine not exceeding Five Hundred Dollars, or by both.

Section 10754. Every person who forges or counterfeits returns of an election purporting to have been held at a precinct, town or ward where no election was in fact held, or wilfully substitutes forged or counterfeit returns of election in the place of the true returns for a precinct, town or ward where an election was actually held, is punishable by imprisonment in the State prison for a term not less than two nor more than ten years.

Section 10755. Every person who wilfully adds to or subtracts from the votes actually cast at an election, in any returns, or who alters such returns, is punishable by imprisonment in the State prison for not less than one nor more than five years.

Section 10756. Every person who aids or abets in the commission of any of the offenses mentioned in the four preceding sections is punishable by imprisonment in the county jail for a period of six months, or in the State prison not exceeding two years.

Section 10757. Every person who, by force, threats, menaces, bribery, or any corrupt means, either directly or indirectly, attempts to influence any elector in giving his vote, or to deter him from giving the same, or attempts by any means whatever to awe, restrain, hinder, or disturb any elector in the free exercise of the right of suffrage, or defrauds any elector at any such election, by deceiving and causing such elector to vote for a different person for any office than he intended or desired to vote for; or who, being judge or clerk of any election, while acting as such, induces, or attempts to induce any elector, either by menaces or reward, or promises thereof, to vote differently from what such elector intended or desired to vote, is guilty of a misdemeanor, and is punishable by a fine not exceeding One Thousand Dollars, or imprisonment not to exceed one year, or both.

Section 10758. Every person who falsely makes, or fraudulently defaces or destroys, the certificates of nomination of candidates for office to be filled by the electors at any election, or any part thereof, or files or receives for filing any certificate of nomination, knowing the same, or any part thereof, to be falsely made, or suppresses any certificate of nomination, which has been duly

filed, or any part thereof, or forges or falsely makes the official endorsement on any ballot, is guilty of a felony, and upon conviction thereof is punishable by imprisonment in the State prison not less than one nor more than five years.

Section 10759. Every officer or clerk of election who deposits in a ballot box a ballot on which the official stamp, as provided by law, does not appear, or does any electioneering on election day, is guilty of a misdemeanor, and upon conviction is punishable by imprisonment not to exceed six months, or by a fine not less than Fifty nor more than Five Hundred Dollars, or both.

Section 10760. Every person who, during an election, removes or destroys any of the supplies or other conveniences, placed in the booths or compartments for the purpose of enabling a voter to prepare his ballot, or prior to or on the day of election wilfully defaces or destroys any list of candidates posted in accordance with the provisions of law, or during an election tears down or defaces the cards printed for the instruction of voters, or does any electioneering on election day within any polling-place or any building in which an election is being held, or within twenty-five feet thereof, or obstructs the doors or entries thereof, or removes any ballot from the polling-place before the closing of the polls, or shows his ballot to any person after it is marked so as to reveal the contents thereof, or solicits an elector to show his ballot after it is marked, or places a mark on his ballot by which it may afterward be identified, or receives a ballot from any other person than one of the judges of the election having charge of the ballots, or votes or offers to vote any ballot except such as he has received from the judges of election having charge of the ballots, or does not return the ballot before leaving the polling-place, delivered to him by such judges, and which he has not voted, is guilty of a misdemeanor, and is punishable by a fine not exceeding One Hundred Dollars.

Section 10761. Every person who, with the intention to promote the election of himself or any other person, either:

1. Furnishes entertainments, at his expense, to any meeting of electors previous to or during an election;
2. Pays for, procures, or engages to pay for any such entertainment;
3. Furnishes or engages to pay any money or property for the purpose of procuring the attendance of voters at the polls, or for the purpose of compensating any person for procuring the attendance of voters at the polls, except for the conveyance of voters who are sick or infirm;
4. Furnishes or engages to pay or deliver any money or property for any purpose intended to promote the election of any candidate, except for the expenses of holding and conducting public meetings for the discussion of public questions, and of printing and circulating ballots, hand bills, and other papers, previous to such election; is guilty of a misdemeanor.

Section 10762. Every person who, being a candidate at any election, offers, or agrees to appoint or procure, the appointment of

any particular person to office, as an inducement or consideration to any person to vote for, or to procure or aid in procuring the election of such candidate, is guilty of a misedemeanor.

Section 10763. Every person, not being a candidate, who communicates any offer, made in violation of the last section, to any person with intent to induce him to vote for, or to procure or to aid in procuring the election of the candidate making the offer, is guilty of a misdemeanor.

Section 10764. Every person who gives or offers a bribe to any officer or member of any legislative caucus, political convention, or political gathering of any kind, held for the purpose of nominating candidates for offices of honor, trust, or profit in this State, with intent to influence the person to whom such bribe is given or offered to be more favorable to one candidate than another, and every person, member of either of the bodies in this section mentioned, who receives or offers to receive any such bribe, is punishable by imprisonment in the State prison not less than one nor more than fourteen years.

Section 10765. Every person who, by threats, intimidations, or violence, wilfully hinders or prevents electors from assembling in public meeting for the consideration of public questions, is guilty of a misdemeanor.

Section 10766. Every person who wilfully disturbs or breaks up any public meeting of electors or others, lawfully being held for the purpose of considering public questions, or any public school or public school meeting is guilty of a misdemeanor.

Section 10767. Every person who makes, offers or accepts any bet or wager upon the result of any election, or upon the success or failure of any person or candidate, or upon the number of votes to be cast, either in the aggregate or for any particular candidate, or upon the vote to be cast by any person, is guilty of a misdemeanor.

Section 10768. Every person who wilfully violates any of the provisions of the laws of this State relating to elections is, unless a different punishment for such violation is prescribed by this Code, punishable by fine not exceeding One Thousand Dollars, or by imprisonment in the State prison not exceeding five years, or both.

Section 10769. The following persons shall be deemed guilty of bribery, and shall be punished by a fine not exceeding One Thousand Dollars, and imprisonment in the penitentiary not exceeding one year:

1. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers or promises, any money or valuable consideration, or promise to procure, or endeavor to procure any money or valuable consideration to or for any election, or to do for any person on behalf of any elector, or to or for any person, in order to induce any elector to vote or refrain from voting, or corruptly does any such act as aforesaid;

2. Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises, any office, place, or employment, to or for any elector, or to or for any other person, in order to induce

such elector to vote or refrain from voting, or corruptly does any such act as aforesaid, on account of any elector having voted or refrained from voting at any election;

3. Every person who, directly or indirectly, by himself or by any other person on his behalf, makes any gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person in order to induce such person to procure or endeavor to procure the return of any person to serve in the Legislative Assembly, or the vote of any elector at any election;

4. Every person who, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procures or promises, or endeavors to procure, the election of any candidate to the Legislative Assembly, or the vote of any elector at any election;

5. Every person who advances or pays, or causes to be paid, any money to, or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery, or in corrupt practices, at any election, or who knowingly pays, or causes to be paid, any money to any person in discharge of repayment of any money wholly or in part expended in bribery or corrupt practices at any election;

6. Every elector who, before or during any election, directly or indirectly, by himself or any other person on his behalf, receives, agrees, or contracts for any money, gift, loan, valuable consideration, office, place, or employment, for himself or any other person, for voting or agreeing to vote, or for refusing or agreeing to refrain from voting at any election;

7. Every person who, after any election, directly or indirectly, by himself or by any other person in his behalf, receives any money, gift, loan, valuable consideration, office, place, or employment, for having voted or refrained from voting, or having induced any other person to vote or refrain from voting, at any election;

8. Every person, whether an elector or otherwise, who, before or during any election, directly or indirectly, by himself or by any other person in his behalf, makes approaches to any candidate or agent or any person representing or acting on behalf of any candidate at such election, and asks for, or offers to agree or contract for any money, gift, loan, valuable consideration, office, place, or employment for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at such election;

9. Every person, whether an elector or otherwise, who, after an election, directly or indirectly, by himself or by any other person on his behalf, makes approaches to any candidate, or any agent or person representing or acting on behalf of any candidate, and asks for or offers to receive any money, gift, loan, valuable consideration, office, place, or employment, for himself or any other person for having voted or refrained from voting, or having induced any other person to vote or refrain from voting at such election;

10. Every person who, in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has so become, gives or lends any money or valuable consideration whatever, or agrees to give or

lend, or offers or promises any such money or valuable consideration, or promises to procure or try to procure, or tries to procure, for such person, or for any other person, and money or valuable consideration;

11. Every person who, for the purpose and with the intent in the last preceding sub-section mentioned, gives or procures any office, place or employment, or agrees to give, or procure or offers or promises, such office, place, or employment, or endeavors to procure, promises to procure or to endeavor to procure such office, place, or employment, to or for such person or any other person;

12. Every person who, in consideration of any gift, loan, offer, promise, or agreement, as mentioned in the two last preceding sub-sections, allows himself to be nominated, or refuses to allow himself to be nominated, as a candidate at an election, or withdraws if he has been so nominated;

13. Every elector, candidate for nomination, nominee, or political committee who shall pay, or offer to pay, the fee for any person who is about to, or has made his declaration of intention, or has taken out, or is about to take out, his final papers as a citizen of the United States; and every person who receives any money or other valuable thing to pay such fee, or permits the same to be paid for him.

Section 10770. It shall be unlawful for any employer, in paying his employees the salary or wages due them, to enclose their pay in "pay envelopes" upon which there is written or printed the name of any candidate or political mottoes, devices, or arguments containing threats or promise, express or implied, calculated or intended to influence the political opinions or actions of such employees. Nor shall it be lawful for an employer, within ninety days of an election, to put up or otherwise exhibit in his factory, workshop or other establishment or place where his workmen or employees may be working, any hand bill or placard containing any threat or promise, notice, or information that in case any particular ticket or political party or organization or candidate shall be elected, work in his place or establishment will cease, in whole or in part, or shall be continued or increased, or his place or establishment be closed up, or the salaries or wages of his workmen or employees be reduced or increased, or other threats or promises, express or implied, intended or calculated to influence the political opinions or actions of his workmen or employees. This section shall apply to corporations as well as individuals, and any person violating the provisions of this section is guilty of a misdemeanor, and shall be punished by a fine of not less than Twenty-five Dollars nor more than Five Hundred Dollars, and imprisonment not exceeding six months in the county jail, and any corporation violating this section shall be punished by fine not to exceed Five Thousand Dollars, or forfeit its charter, or both such fine and forfeiture.

Section 10771. All fines imposed and collected under the preceding sections shall be paid into the county treasury for the benefit of the common schools of the county in which the offense was committed.

Section 10772. If it be proved before any court for the trial of election contests or petitions that any corrupt practice has been

committed by or with the actual knowledge and consent of any candidate at an election, if he has been elected, such election shall be void, and shall be so adjudged.

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## APPORTIONMENT AND REPRESENTATION.

(Constitutional Provisions.)

### ARTICLE VI.

Section 1. One Representative in the Congress of the United States shall be elected from the State at large, the first Tuesday in October, 1889, and thereafter at such times and places, and in such manner as may be prescribed by law. When a new apportionment shall be made by Congress the Legislative Assembly shall divide the State into Congressional districts accordingly.

Section 2. The Legislative Assembly shall provide by law for an enumeration of the inhabitants of the State in the year 1895 and every tenth year thereafter; and at the session next following such enumeration, and also at the session next following an enumeration made by the authority of the United States, shall revise and adjust the apportionment for Representatives on the basis of such enumeration according to ratios to be fixed by law.

Section 3. Representative districts may be altered from time to time as public convenience may require. When a representative district shall be composed of two or more counties, they shall be contiguous, and the districts as compact as may be. No county shall be divided in the formation of representative districts.

Section 4. Whenever new counties are created, each of said counties shall be entitled to one Senator, but in no case shall a Senatorial district consist of more than one county. (See also Section 43, Revised Codes, 1921.)

Section 43. That all that portion of the State of Montana lying west of the east boundary of Flathead, Lewis and Clark, Broadwater and Gallatin counties, to-wit: the counties of Lincoln, Sanders, Mineral, Missoula, Ravalli, Beaverhead, Madison, Silver Bow, Jefferson, Deer Lodge, Granite, Powell, Flathead, Gallatin, Lewis and Clark, and Broadwater, shall constitute the First Congressional District of the State; and that all that portion of the State of Montana lying east of the east boundary of Flathead, Lewis and Clark, Broadwater and Gallatin counties, to-wit: the counties of Hill, Blaine, Phillips, Valley, Sheridan, Dawson, Wibaux, Prairie, Richland, Fergus, Chouteau, Cascade, Meagher, Musselshell, Rosebud, Custer, Fallon, Big Horn, Carbon, Yellowstone, Stillwater, Sweet Grass, Park, Toole, and Teton, shall constitute the Second Congressional District of the State.

Whenever any county is created, comprised partly of the territory of both such districts, said county shall belong to and become a part of the district to which major portion of the territory of said county belonged and was a part prior to the creation of such new county.

## ARTICLE V.

## Legislative Department.

Section 2. Senators shall be elected for the term of four years, and Representatives for the term of two years, except as otherwise provided in this constitution.

Section 3. No person shall be a Representative who shall not have attained the age of twenty-one years, or a Senator who shall not have attained the age of twenty-four years, and who shall not be a citizen of the United States, and who shall not (for at least twelve months next preceding his election) have resided within the county or district in which he shall be elected.

\* \* \* \* \*

It shall be the duty of the first Legislative Assembly to divide the State into Senatorial and Representative districts, but there shall be no more than one Senator from each county.

\* \* \* \* \*

Section 44. That after the expiration of the Seventeenth Legislative Assembly of Montana, the membership of the House of Representatives of all legislative assemblies of Montana shall be apportioned amongst, and to the several counties of the state, upon and according to the official Federal census enumeration of the inhabitants of the several counties of Montana had, as taken by authority of law in the year 1920, and upon the ratio of one representative, or member, therein from each county, for each six thousand (6,000) persons in such county, or fractional part thereof in excess of three thousand (3,000) persons; provided, each county now created, shall be entitled to at least one member.

Section 45. In accordance therewith each county of the state shall be entitled to, and shall elect at each biennial general, state and county election, the number of members of the House of Representatives in the Legislative Assembly of Montana herein below allotted and apportioned to it, and set opposite its name as follows, to-wit:

Beaverhead County.....	One member
Big Horn County.....	One member
Broadwater County.....	One member
Blaine County.....	Two members
Carbon County.....	Three members
Carter County.....	One member
Cascade County.....	Six members
Chouteau County.....	Two members
Custer County.....	Two members
Daniels County.....	One member
Dawson County.....	Two members
Deer Lodge County.....	Three members
Fallon County.....	One member
Fergus County.....	Four members
Flathead County.....	Four members
Gallatin County.....	Three members
Garfield County.....	One member
Glacier County.....	One member
Golden Valley County.....	One member

Granite County.....	One member
Hill County.....	Two members
Jefferson County.....	One member
Judith Basin County.....	One member
Lewis and Clark County.....	Three members
Liberty County.....	One member
Lincoln County.....	One member
Madison County.....	One member
McCone County.....	One member
Meagher County.....	One member
Mineral County.....	One member
Missoula County.....	Four members
Musselshell County.....	One member
Park County.....	Two members
Phillips County.....	Two members
Pondera County.....	One member
Powder River County.....	One member
Powell County.....	One member
Prairie County.....	One member
Ravalli County.....	Two members
Richland County.....	One member
Rosebud County.....	One member
Roosevelt County.....	Two members
Sanders County.....	One member
Sheridan County.....	Two members
Silver Bow County.....	Ten members
Stillwater County.....	One member
Sweet Grass County.....	One member
Teton County.....	One member
Toole County.....	One member
Treasure County.....	One member
Valley County.....	Two members
Wheatland County.....	One member
Wibaux County.....	One member
Yellowstone County.....	Five members

Section 46. Whenever a new county is created it shall have and be entitled to one member of the House of Representatives until otherwise apportioned.

Section 47. Whenever a new county is created, it shall be attached to and become a part of the representative district, embracing the county from which the largest area included in the new county has been taken.

(Above list brought up to date of issue of this pamphlet.)

## JUDICIAL DISTRICTS.

### As at Present Constituted With Number of Judges in Each.

First District, County of Lewis and Clark—Two Judges.

Second District, County of Silver Bow—Three Judges.

Third District, Counties of Deer Lodge, Powell and Granite—One Judge.

Fourth District, Counties of Mineral, Missoula, Ravalli and Sanders—Three Judges.

Fifth District, Counties of Beaverhead, Jefferson and Madison—Two Judges.

Sixth District, Counties of Park, Stillwater and Sweet Grass—One Judge.

Seventh District, Counties of Dawson, Wibaux, McCone and Richland—One Judge.

Eighth District, County of Cascade—Two Judges.

Ninth District, County of Gallatin—One Judge.

Tenth District, Counties of Judith Basin and Fergus—Two Judges.

Eleventh District, Counties of Flathead and Lincoln—One Judge.

Twelfth District, County of Chouteau—One Judge.

Thirteenth District, Counties of Carbon, Big Horn and Yellowstone—Two Judges.

Fourteenth District, Counties of Meagher, Wheatland and Broadwater—One Judge.

Fifteenth District, Counties of Golden Valley, Rosebud, Musselshell and Treasure—One Judge.

Sixteenth District, Counties of Custer, Carter, Fallon, Garfield, Powder River and Prairie—Two Judges.

Seventeenth District, Counties of Phillips and Valley—One Judge.

Eighteenth District, Counties of Hill, Liberty and Blaine—One Judge.

Nineteenth District, Counties of Teton, Glacier, Pondera and Toole—One Judge.

Twentieth District, Counties of Daniels, Sheridan and Roosevelt—One Judge.



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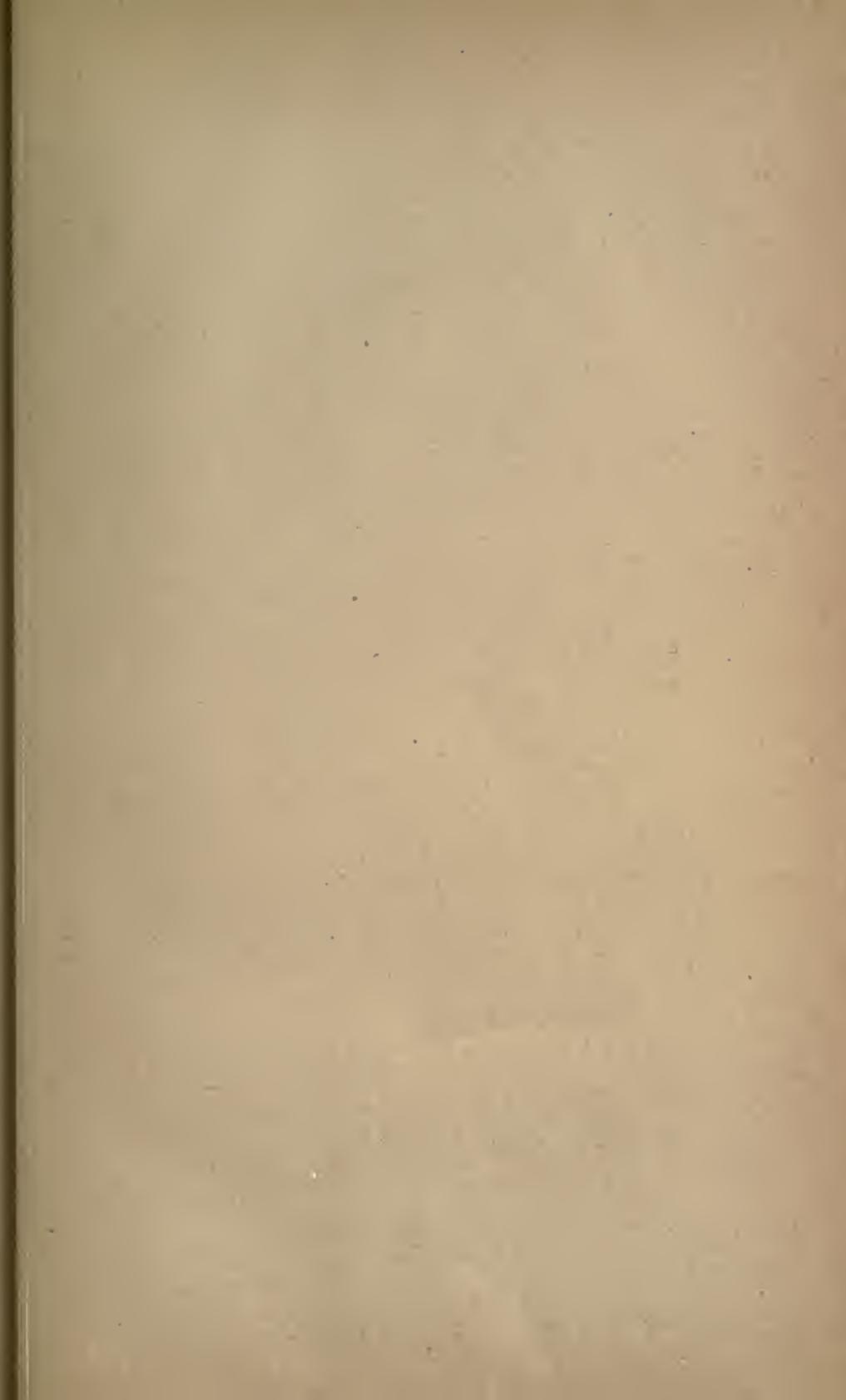
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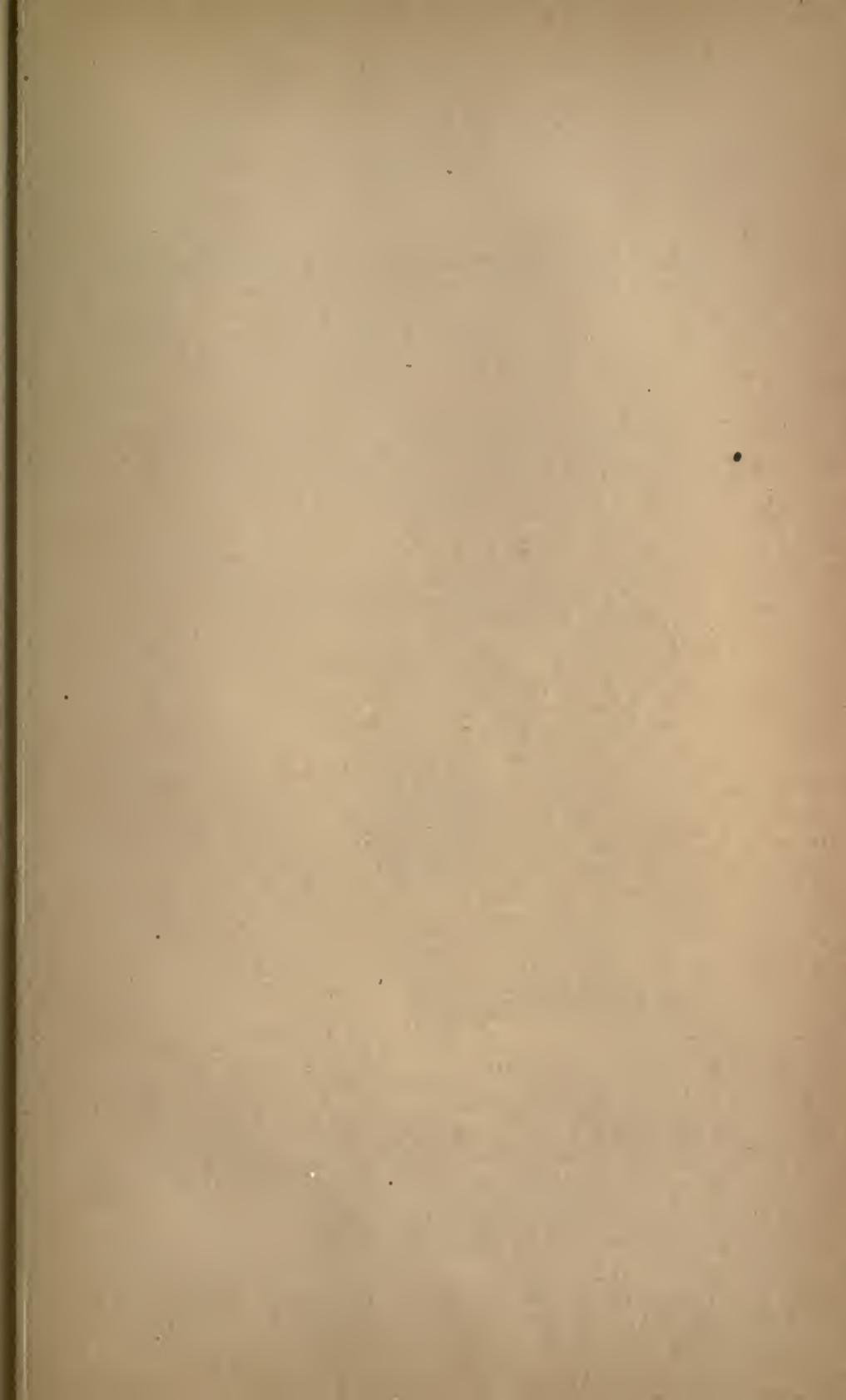
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SUPPLEMENT TO  
Election Laws of Montana  
of 1921

Containing all Amendments of the  
18th Legislative Assembly  
of 1923

Concerning Elections



Compiled by Secretary of State  
Helena, Montana  
July, 1923



## CHAPTER 31.\*

An Act to Amend Sections Numbered 5404, 5405, 5411, 5413, 5415, 5418, 5442, 5443, 5444, 5448, 5449, 5465, 5466, 5470, 5471, 5487, 5502, 5507, 5515, and 5516, of the Revised Codes of Montana, 1921, Relating to the Commission-Manager Plan of Government.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Section 5404 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5404. If such proposition is adopted, the mayor shall transmit to the governor, to the secretary of state and to the county clerk and recorder, each a certificate stating that such proposition was adopted.

"If such proposition shall not be adopted at such special election, such proposition shall not again be submitted to the electors of such municipality within a period of two years from the date of the last submission."

Section 2. That Section 5405 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5405. If the majority of the votes cast at such election shall be in favor of such proposition, the city or town council must hold a meeting within one week thereafter and at such meeting order a special election to be held for the purpose of electing the number of commissioners to which such municipality shall be entitled, which order shall specify the time of holding such election, which must be within ninety days after the making of such order, and the mayor shall thereupon issue a proclamation setting forth the purpose for which such special election is held and the day of holding the same, which proclamation shall be published for ten successive days in each daily newspaper published in such municipality if there be such, otherwise for two successive weeks in each weekly newspaper published therein, and a copy thereof shall also be posted at each voting place within said municipality and also in five of the most public places in said municipality."

Section 3. That Section 5411 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5411. The Commissioners elected at the first election shall qualify and their terms of office shall begin on the first Monday after their election, and the terms of office of the Mayor and Councilmen or Aldermen in such city or town in office at the beginning of the term of office of the commissioners first elected under the provisions of this Act shall cease and terminate, and the terms of office of all their appointed officers, and of all of the employees of such city or town, shall cease and terminate as soon as the commissioners shall by resolution declare.

"All commissioners shall serve for a term of four years and until their successors are elected and have qualified; except that at the first election the two candidates having the highest number of votes shall hold office for a period of four years, less the time elapsed since the 31st day of December of the odd numbered year last preceding. The terms of office of all other candidates shall expire on the 31st day of December in any odd numbered year following the special election provided for in this Act, at which the first commissioners are elected.

"If any city or town, having adopted the plan of government provided for by this Act in the year 1921, shall have held no election to fill the vacancy caused by the expiration of the term of the commissioner whose term of office expired on the first day of January, 1922, then at the election held in such city or town in November, 1923, there shall be elected three commissioners. The term of office of the Commissioner elected by the smallest number of votes at such election shall expire on the 31st day of December, 1925, and the terms of the other two shall expire on the 31st day of December, 1927."

\* Compare pages 144 to 158 inclusive, Election Law Pamphlet of 1921.

Section 4. That Section 5413 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5413. Members of the commission shall be residents of the city or town and have the qualifications of electors, and own real estate situated therein to the assessed value of not less than one thousand dollars. Commissioners and other officers and employees shall not hold any other public office or employment, except in the State Militia, as School Trustees, or Notary Publics, and shall not be interested in the profits or emoluments of any contract, job, work, or service for the municipality. Any commissioner who shall cease to possess any of the qualifications herein required, shall forthwith forfeit his office, and any such contract in which any member is or may be interested, may be declared void by the commission.

"No commissioner or other officer or employee of said city or town shall accept any frank, free ticket, pass or service directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor and shall also be sufficient cause for the summary removal or discharge of the offender. Such provisions for free service shall not apply to policemen or firemen in uniform or wearing their official badges, where the same is provided by ordinance, nor to any commissioner, nor to the city manager, nor to the city attorney, upon official business, nor to any other employee or official of said city on official business who exhibits written authority signed by the city manager."

Section 5. That Section 5415 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5415. All ballots used in all elections held under authority of this Act shall be without party mark or designation. The ballots shall be printed on plain, substantial white paper.

"Except that the crosses here shown shall be omitted, and that in place of the names of persons here shown, there shall appear the names of the persons who are candidates for nomination, the primary ballots shall be substantially as hereinafter designated. Primary, regular and special election ballots provided under authority of this Act for the nomination or election of commissioners shall not bear the name of any person or persons or any issue other than those of candidates for the nomination or election to the office of commissioner."

#### Official Primary Ballot

Vote for (insert here a number equal to the number of persons to be elected to the office of commissioner at the next regular municipal election.)

If you wrongly mark, tear or deface this ballot, return it and obtain another.

Candidates for nomination to the office of Commissioner at the primary election.



John Doe



Henry Smith



George Jones



James Richards



Richard Doe

Official Ballot Attest:

(Signature) .....

Clerk of the Commission.

Having caused said ballots to be printed, the clerk of the commission shall cause to be delivered at each polling place a number of said ballots, ten per cent in excess of the number of such voters registered in such polling place at the last general municipal election. The persons who are qualified to vote at the general election, shall be qualified to vote at such primary election, and any person offering to vote, may be orally challenged by any elector of the municipality upon any or all grounds set forth and specified in Section 706 of the Revised Codes of Montana of 1921, and the provisions of Sections 707, 708, 709, 710, 711, 712, 713 and 714 of the Revised Codes of Montana, 1921, shall apply at all challenges made at such election. Judges of election shall immediately upon the closing of the polls, count the ballots and ascertain the number of such votes cast in such precinct for each of the candidates, and make return thereof to the clerk of the commission upon proper blanks to be furnished by the clerk of the commission within twelve hours of the closing of the polls. Not later than the first legal day after he shall have received such returns, the clerk of the commission shall canvass said returns so received from all the polling precincts and shall make and publish in all the newspapers in said municipality, at least once, the result thereof. Said canvass by the clerk of the commission shall be made publicly.

The candidates for nomination to the office of commissioner who shall have received the greatest vote in such primary election shall be placed on the ballot at the next regular municipal election, in number not to exceed double the number of vacancies in the commission to be filled.

Except as otherwise in this Act provided all electors of municipalities under this Act, who, by ordinances governing cities and towns incorporated under the general municipal incorporation law, or by charter, would be entitled to vote for the election of officers at any general municipal election in such cities or towns, shall be qualified to vote at all elections under this Act; and the ballots to be used at such general municipal elections, shall be in the same general form as for such primary election so far as applicable, and in all elections in such municipalities, the election precincts, voting places, method of conducting the elections, canvassing of votes and announcing the results, shall be the same as by law provided for the election of officers in such cities or towns so far as the same are applicable and not inconsistent with the provisions of this Act."

Section 6. That Section 5418 of the Revised Codes of Montana, 1921, be, and the same is hereby, amended to read as follows:

"Section 5418. Every candidate for Commissioner shall, within thirty (30) days after the election, file with the Clerk of the Commission his sworn statement of all his election and campaign expenses, and by whom such funds were contributed.

Any violation of the provisions of this section, shall be a misdemeanor and if committed by a successful candidate, give ground for the removal from office."

Section 7. That Section 5442 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5442. In case a petition be filed requiring that a measure passed by the Commission providing for an expenditure of money, a bond issue, or a public improvement be submitted to a vote of the electors, all steps preliminary to such expenditure, actual issuance of the bonds, or actual execution of the contract for such improvement, may be taken prior to the election; and at such election only resident taxpayers of such city or town whose names as such appear upon the assessment roll and who are also qualified electors of said city or town, shall be entitled to vote at such election. And at any and all elections in such city or town at which questions relating to bond issues, tax levies, or the expenditure of money shall be submitted, no person shall be entitled to vote unless qualified as in this section provided."

Section 8. That Section 5443 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5443. Every person who has been declared elected Com-

missioner, shall within ten (10) days thereafter take and file with the clerk of the commission his oath of office in the form and manner provided by law, and shall execute and give sufficient bond to the municipal corporation in such sum as the judge of the district court of the county in which such municipality is situated, not, however, exceeding \$5000.00 for Commissioners in cities of the first class and \$3000.00 for Commissioners in all other cities and towns, conditioned for the faithful performance of the duties of his office, which bond shall be filed with the Clerk and Recorder of the County in which such municipality is situated. The premium on such bond as may be required, shall be paid by the municipality."

Section 9. That Section 5444 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5444. The mayor shall be that member of the commission, who, at the regular municipal election at which the commissioners were elected, received the highest number of votes. In case two candidates receive the same number of votes, one of them shall be chosen mayor by the remaining members of the commission. In event of a vacancy in the office of the mayor, by the expiration of his term of office, the holdover commissioner having received the highest number of votes shall be the mayor. In the event there is a vacancy in the office of the mayor for any other cause, the remaining members of the commission shall choose his successor for the unexpired term from their own number by lot. The mayor shall be the presiding officer, except that in his absence, a president pro tempore may be chosen. The mayor shall exercise such powers conferred, and perform all duties imposed upon him by this Act, the ordinances of the municipality and the laws of the state, except that he shall have no power to veto any measure. He shall be recognized as the official head of the municipality by the courts for the purpose of serving civil processes, by the Governor for the purposes of the military law, and for all ceremonial purposes."

Section 10. That Section 5448 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5448. At ten o'clock A. M. on the first Monday after the first day of January, following a regular municipal election, the Commission shall meet at the usual place for holding the meetings of the legislative body of the municipality, at which time the newly elected commissioners shall assume the duties of their office. Thereafter, the commissioners shall meet at such times as may be prescribed by ordinance or resolution, except that in municipalities having less than five thousand inhabitants, they shall meet regularly at least once and not more than four times per month, and in municipalities having more than five thousand inhabitants, they shall meet not less than once every two weeks. Absence from five (5) consecutive regular meetings shall operate to vacate the seat of a member, unless such absence be authorized by the commission.

"The commissioner acting as mayor, any two members of the commission or the city manager, may call special meetings of the commission upon at least twelve (12) hours written notice to each member of the commission, served personally on each member or left at his usual place of residence. All meetings of the commission shall be public and any citizen shall have access to the minutes and records thereof at all reasonable times. The commission shall determine its own rules and order of business and shall keep a journal of its proceedings."

Section 19. That Section 5515 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5515. Except as otherwise in this Act provided, all Acts and parts of Acts and all laws now in force or hereafter enacted relative to municipal corporations, are hereby continued in full force and effect and

shall be considered and construed as not repealed by this Act, except insofar as the same may be in conflict or inconsistent with the provisions of this Act."

Section 20. That Section 5516 of the Revised Codes of Montana 1921, be, and the same is hereby, amended to read as follows:

"Section 5516. All laws and parts of laws in conflict herewith are hereby repealed; provided, however, that this Act shall not repeal or modify any of the provisions of an Act approved March 4, 1913, entitled, An Act making the Board of Railroad Commissioners of the State of Montana ex-officio a Public Service Commission for the regulation and control of certain public utilities, etc., or any amendment or amendments of said Act, or Section 6645 of the Revised Codes of Montana of 1921, and neither shall this Act in any manner curtail or impair the power or authority of said Public Service Commission and any other made, action taken, or regulation provided, by said Commission shall supersede and nullify any order, regulation, ordinance or other action authorized by this Act in conflict with any such order, regulation, or action, of said Public Service Commission; provided, that the annual report relating to the operation of any public utility owned by any municipality operating under the provisions of this Act, to be made to said Public Service Commission, shall conform to the fiscal year of such city or town as established by this Act."

Section 21. This Act shall be in full force and effect from and after its passage and approval.

Approved, Feb. 27, 1923.

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### CHAPTER 43.\*

An Act to Amend Sections 587 and 588 of the Revised Codes of Montana of 1921 Relating to Judges of Election, How Appointed and Number of Judges to be Appointed.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Section 587 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

"Section 587. Judges of Election—How Appointed. The Board of County Commissioners of the several counties at the regular session next preceding a general election, must appoint five judges of election for each precinct in which the voters therein, by the last registration, were two hundred or more and three judges of election for each precinct in which such registration was less than two hundred."

Section 2. That Section 588 of the Revised Codes of Montana of 1921 be, and the same is hereby, amended to read as follows:

"Section 588. Number of Judges to be Appointed. The Board of County Commissioners, notwithstanding the registration, may appoint five judges of each precinct in which upon information obtained by them they have reason to believe contains two hundred voters or more and three judges of election in precincts which upon information obtained by them, they have reason to believe was less than two hundred."

Section 3. All acts and parts of acts in conflict herewith are hereby repealed.

Section 4. This act shall be in full force and effect from and after its passage and approval.

Approved Feb. 28, 1923.

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\* Compare pages 23 and 24, Election Law Pamphlet of 1921.

## CHAPTER 68.\*

An Act to Amend Sections 1042, 1043, 1044, 1045, 1047 and 1048 of the Revised Codes of Montana, 1921, Relating to the Creation of a Rural School District.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Chapter 80, Section 1042 of the Revised Codes of Montana 1921, be, and the same is hereby amended to read as follows:

"Section 1042. Any county in the state may adopt the county unit system for rural schools provided in the succeeding sections of this Act, on the conditions hereinafter prescribed as follows:

Whenever, between the first day of December of any year and the first day of April of the following year, twenty per cent of the registered electors residing in third class school districts of any county shall petition the board of county commissioners requesting that the county unit system for rural schools be established in such county, the county commissioners shall call an election to be held in all third class districts of the county, within ninety days, and in any event not later than the tenth day of May following. The county commissioners shall appoint precinct judges and clerks, and the election shall be conducted in accordance with the general election law of the state, and the judges and clerks of such election shall serve without compensation. The place of election in each precinct shall be the established polling place in each precinct. All registered electors residing in the proposed rural school district and whose names appear upon the registration books of the county upon the day of calling such election, shall be entitled to vote upon such election. The polling books of any precinct shall not contain the names of any registered electors residing in any district of the first and second class. The county clerk shall give twenty days' notice of such election by publication in the official paper of the county that the question of adopting the county unit system for rural schools will be submitted to the qualified electors in all third class districts of the county at the time designated. It shall not be necessary to give notice of closing or registration books of the county in elections held pursuant to the provisions of this Act. But the registration books of the county for such election shall automatically close upon the day of calling such election. The qualified electors of the proposed rural school district shall vote by ballot for or against the adoption of the county unit system for rural schools. An elector desiring to vote for such adoption shall do so by marking (X) on his ballot before the phrase, "For the County Unit"; an elector desiring to vote against such adoption shall do so by marking (X) on his ballot before the phrase, "Against the County Unit."

After the election the ballots shall be counted and the votes canvassed and returns shall be made to the county clerk in the manner prescribed in the general election laws. If a majority of the votes cast at the election is in favor of the county unit, the board of county commissioners shall make and enter an order creating such rural school district and establish the boundaries of each subdivision and this Act shall become effective in so far as the county is concerned. Boundaries of subdivisions may be altered by county commissioners at a later date in case county division or other cause may unduly reduce or increase the size of a subdivision or subdivisions.

If a majority of the votes cast at such election is against organization of the rural school district, another election upon the question of organizing a rural school district cannot be held until after the expiration of two years.

As soon as the board of county commissioners has for the first time established the boundaries of the subdivisions as hereinbefore provided,

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\* Compare pages 165 to 170 inclusive, Election Law Pamphlet of 1921.

the said board of county commissioners shall thereupon appoint one elector from among the residents of each of the five subdivisions of the rural school district to constitute a board of trustees for the rural school district of the county. Of these five trustees so appointed two shall serve until the first regular school election after their appointment, two until the second regular school election after their appointment, and one until the third regular election after his appointment, the terms of trustees so appointed to be determined by lot.

Section 2. That Section 1043 of Revised Codes of Montana 1921 be and the same is hereby amended to read as follows:

1043. 1. These trustees shall be electors of the subdivision of the rural school district of the county in which they are to serve. Except as hereinbefore provided such trustees shall be elected at the annual school election and shall serve for three years and until their successors are elected or appointed and qualify.

2. On or before fifteen days prior to the annual school election, there may be filed with the secretary of the board of trustees of the rural school district, petitions signed by at least twenty-five qualified electors of each subdivision of the rural school district in which the term of a trustee is about to expire, nominating candidates for trustees to be voted for at the ensuing election, and if any trustees are to be elected to complete unexpired terms, as hereinafter provided, such petition shall state whether the persons nominated therein are nominated for such unexpired terms or for full terms of three years. The board of trustees shall cause the names of all candidates for trustees of the rural school district to be printed and sent to the clerk in each sub-district of the part in which a trustee is to be elected, to be posted at each polling place at least five days preceding the election. The election of school trustees shall be held and conducted under the supervision of the trustees of the local sub-district, who shall not less than fifteen days before the annual election post notices in three public places in their sub-districts, which notices must specify the time and place of election and hours during which the polls will be open. The local trustees must appoint, by an order entered in their records, three qualified electors of said sub-districts to act as judges at said election, and the local clerk shall notify them by mail of their appointment. If the judges are not present at the time of opening the polls, the electors present may appoint judges, and the judges so appointed shall designate one of their number to act as clerk. The voting must be by ballot without reference to the general election laws in regard to nominations, forms of ballot, or manner of voting, and the polls shall be open for such time as the board of trustees may order; provided, that such polls must be open between two P. M. and six P. M. It shall be the duty of the judges of the election to canvass the votes cast in their respective sub-districts for trustees, and make returns of the same to the county clerk in the manner and form as may be prescribed by the general election law of the state in so far as the same may be applicable to school elections. The returns shall be canvassed and the result declared by the county commissioners and certificates of election issued by the county clerk in the same manner as may be prescribed by the general election laws of the state in so far as the same may be applicable thereto; Provided that in the election of said board of trustees the votes cast in each of the five subdivisions of the rural school district shall be canvassed separately and the candidates receiving the largest number of votes in any one subdivision shall be elected as the trustee for such subdivision; provided, further, that no one shall be eligible as trustee who is not at the time of his election or appointment a bona fide resident and elector of the subdivision of the rural school district for which he is elected.

3. Persons elected or appointed as trustees shall qualify by taking an oath to perform their duties according to law. Their oaths may be administered by the county superintendent or any other officer authorized by law to administer oaths, and must be filed with the clerk of the board

of trustees within fifteen days after the election or appointment. The board of county commissioners shall appoint trustees to fill vacancies in the board of rural school district trustees: provided, that such appointment is confirmed by the majority of the remaining members of such board. Trustees so appointed shall serve till the next regular school election, at which election successors shall be elected to serve for the unexpired balance of the term if any."

Section 3. That Section 1044 of Revised Codes of Montana 1921 be and the same is hereby amended to read as follows:

"1. The board of trustees of every rural school district shall have only the powers and shall perform only the duties enumerated in this Act. The board of trustees of each sub-district of the rural school district shall have all the powers and perform all the duties imposed upon trustees of school districts according to the provisions of Chapter 76 of the Session Laws of the Thirteenth Legislative Assembly and Acts amendatory thereof and supplementary thereto, except, as modified by the terms of this Act.

2. The board of trustees of each sub-district of the rural school district shall not later than the last day of May prepare and certify to the board of trustees of the rural school district, a budget containing an estimate of all of the different items of expenditures for operation and maintenance to be incurred by such sub-districts for the ensuing school year. Such budget shall explain in detail the several items of estimated expenditures, together with an explanation of the necessity therefor. Such budget shall also be accompanied by a full and complete report of the school facilities of the sub-district and of the educational opportunities afforded to each child in such sub-district. Any board of trustees of a sub-district making expenditures in excess of their budget shall have deducted from their budget for the ensuing year the amount of such excess expenditure, unless the county board of trustees authorized such expenditure from its emergency fund.

3. For any extraordinary expenditure or expenditures for any purpose other than operation and maintenance to be incurred by a sub-district, not included in the budget for such sub-district, as adopted by the board of trustees of the rural school district, the board of trustees of such sub-district may cause to be levied upon the property in the sub-district a special tax pursuant to the provisions of Section 1203 of the Revised Codes of Montana 1921.

4. The board of trustees of the rural school district shall on the first Monday in June, examine the budgets certified to it by the trustees of the several sub-districts, and from such budgets shall prepare a complete budget for the rural school district, which shall provide for the furnishing of reasonable educational facilities to every child in the rural school district, including the payment of board or rent or both, and transportation of children from isolated sections, in cases where the same is more expedient than maintaining a school in such isolated sections; all interest on all outstanding bonds issued by such rural district or the payment of which has been assumed by such district, and so much of the principal of any such bonds as is to become due during the ensuing school year and also including any other reasonable item of expenditure not herein enumerated, and necessary for carrying out the provisions of this Act: Such budget shall contain the detailed estimated expenditures of each sub-district. Patrons shall have the right of appeal to the board of trustees of the rural school district in case provision of educational opportunities of children have been neglected or overlooked by the trustees of the sub-district, and the decision of the trustees of the rural school district shall be final.

5. The board of trustees of every rural school district is hereby authorized to include in the budget for any year as a separate item an amount not in excess of a one-half mill levy to provide for the following

general purposes effecting the entire rural school district or for any of them; the supervision of the health of students, employment of a truant officer, provision for new students in any local district who may have come into said district after the adoption of the budget for said district and not provided for in said budget. They shall also be authorized to provide a levy not in excess of one mill in any one year for establishing a building fund for the erection of portable or other school buildings, barns, dormitories or teacherages when the same are deemed necessary by the board of trustees of the rural school district and to make provision of necessary building facilities for isolated and special cases. Whenever such extra levies are made the board of trustees of the rural school district shall specify the purposes for which same are to be used and make the expenditures for said purposes as set out in said budget.

6. The board of trustees of the rural school district shall on or before the second Monday in June in each year certify to the board of county commissioners the total amount of money required in excess of the state and county apportionments to be raised by taxation for the rural school district pursuant to the budget adopted by the board, and the board of county commissioners shall cause to be levied at the time of the levy of taxes for state and county purposes, a sufficient levy upon all of the taxable property within the rural school district to raise the amount of money so certified by the board of trustees of the rural school district, after allowing a deduction of ten per cent on account of delinquencies. The board of trustees of the rural school district shall at its regular meeting held on the second Thursday in December, apportion to the several sub-districts their proportionate part of the taxes then collected, such proportionate part to be determined in accordance with the budget as above mentioned. They may at this meeting make such adjustments in the budgets as may seem necessary because of new conditions arising since the budgets were allowed.

7. Any warrant issued by any sub-district board, except for salaries, shall be countersigned by the secretary of the board of trustees of the rural school district. Said secretary is authorized to countersign only such warrants as are drawn in payment of expenses approved by the board of trustees of the rural school district in the budget of the sub-district. Hereafter all warrants issued by sub-district shall carry the notation "This warrant not valid, except for salaries, unless countersigned by secretary of board of trustees of the rural school district."

8. The board of trustees of the rural school district is authorized to close schools with an enrollment of fewer than five pupils, if in the judgment of said board, such children can be cared for more economically and in a satisfactory manner in another school. Said board shall also be empowered to place textbooks and equipment of schools closed in other communities where such materials are needed, provided that such textbooks and equipment shall be replaced or new materials shall be provided in their stead at such time as it may become desirable to reopen said school.

9. The board of trustees of any rural school district is hereby vested with the power and authority to issue and negotiate on the credit of the rural school district, coupon bonds for any one or more of the purposes authorized in Section 1224 of the Revised Codes of Montana 1921. The question of such bond issues shall be submitted to the electors of the rural school district in the same manner provided by said section. The clerk of the board of trustees of the rural school district upon the passing of the resolution by the board submitting to the electors of the rural school district the question of the issuance of bonds, shall furnish the clerk of each sub-district with three copies of the notice of election of such bond issue. The clerk of each sub-district shall not less than fifteen days before the date specified in such notices for such election, post notices in three public places in said district, one which shall be at the place of election designated in such notice. The ballots shall be sub-

stantially in the form provided in Section 1225 of the Revised Codes of Montana 1921 and the votes shall be canvassed by the trustees in each sub-district who shall certify the result of the election in each sub-district to the secretary of the board of trustees of the rural school district. If a majority of the votes cast in such rural school district are in favor of the issuance of bonds the board of trustees shall thereupon proceed to issue and sell the bonds in accordance with the provisions of Sections 1225 and 1226 of the Revised Codes of Montana 1921 and all of the provisions of sections 1227 to 1233, inclusive, of the Revised Codes of Montana, 1921, shall be applicable thereto and shall govern the same. The county superintendent of schools shall be ex-officio secretary of the board, and it shall be his duty to enforce the rules, regulations and orders of the board, but he shall not be entitled to vote.

10. School District Liable on Bonds.—The faith of the rural school district is solemnly pledged for the payment of the interest and the redemption of the principal of the bonds which shall be issued under the provisions of this chapter. And for the purpose of enforcing the provisions of this chapter, the rural school district shall be a body corporate, which may sue and be sued by or in the name of the board of school trustees of such district.

11. The board of trustees of the rural school district shall be authorized to establish a salary schedule based upon teaching experience, training and certification of teachers and to determine transportation rates and allowances for board and house rent."

Section 4. That section 1045 of the Revised Codes of Montana 1921 be, and the same is hereby amended to read as follows:

"Section 1045. 1. All sinking funds on hand as a surplus or credit to the various third class districts in any county prior to and on July 1, of the year in which the provisions of this Act shall be accepted, in such county, as hereinabove provided, shall become a part of the corresponding sinking funds of the rural school district of the county. All moneys to credit of general or special funds of sub-districts prior to and on July 1 of the year in which the provisions of this Act shall be accepted shall remain to credit of such special funds of sub-districts and may be spent by sub-district trustees only in accordance with the provisions of the budget for the ensuing year except for meeting contracts already entered into when the county unit plan was adopted.

2. All the existing indebtedness of the various third class districts in any county prior to and on July 1, of such year, whether for maintenance or bonded indebtedness or otherwise, shall become the indebtedness of, and shall be assumed and paid by the rural school district of that county, such payments being made from the corresponding respective and proper funds. Said board of trustees in the rural school district is authorized and empowered to issue bonds of the rural school district to take up and cancel such bonded indebtedness and all the provisions of section 1224 to 1233 inclusive of the Revised Codes of Montana, 1921, shall apply thereto and govern the same: provided, however, that such board of trustees shall have power and authority to issue and dispose of such bonds for such purpose without being required to submit the question of so doing to any election."

Section 5. That Section 1047 of Revised Codes of Montana 1921 be, and the same is hereby amended to read as follows:

"The regular annual meeting of the board of trustees of the rural school district shall be held on the first Thursday in July. At this meeting new members elected shall take office; a president shall be elected for the ensuing year by the board, from among its own membership; and the executive officers of the board shall make their annual reports. Another regular meeting shall be held on the second Thursday in December and special meetings may be called by the president, or by three other members of the board. Each member of the board of trustees of the rural

school district shall be paid from the general fund of the county his necessary traveling expenses in attending regular meetings, but not to exceed four special meetings, and an honorarium of seventy-five dollars per year. Failure to attend two regular meetings in succession, unless excused on account of sickness shall work a forfeiture of the office."

Section 6. That Section 1048 of Revised Codes of Montana 1921 be, and the same is hereby amended to read as follows:

"A rural school district organized under the provisions of this Act may be dissolved after the expiration of four years from the date of its organization, in the following manner, to-wit:

Whenever, between the first day of January and the first day of March in any year twenty per cent of registered electors in a rural school district shall petition the board of trustees of the rural school district requesting the dissolution of such school district, the board of trustees of the rural school district shall submit such petitions to the county clerk, and the county commissioners shall call an election which shall be held in all third class districts of the county and conducted in the manner prescribed for the adoption of the county unit system as set forth in Section 1 of this Act. If a majority of votes cast at such election shall be in favor of the dissolution of the rural school district, the board of county commissioners shall make an order to that effect and on and after July first the rural school district shall be dissolved and the several sub-districts shall thereupon become school districts of the third class.

If the election for the dissolution of such school district should fail to carry, another election upon the question of dissolution of such school district may not be held until after the expiration of two years.

The board of county commissioners shall distribute funds of the rural school district and apportion the indebtedness of the rural school district in the following manner. Each school district (formerly a sub-district) shall thereupon become the owner of all the property of the rural school district located within its boundaries. The county commissioners shall apportion to each school district that portion of the funds of the rural school district other than sinking funds, which is in proportion to the number of school census children within the school district. The county commissioners of the county shall continue to levy the taxes upon all the property located within the territory which formerly constituted the rural school district, until the interest and the principal of all bonds issued by the rural school district shall have been paid in full.

Section 7. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 8. This Act shall be in full force and effect from and after its passage and approval.

Approved March 5, 1923.

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### CHAPTER 95, LAWS OF 1923.

Amends Sec. 4465 in part only. Paragraph 3 remains as in Codes of 1921. See page 115, Election Law Pamphlet of 1921.

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### CHAPTER 98.

An Act prescribing the Qualification of Electors Who Shall Be Entitled to Vote Upon Proposals to Create or Increase Indebtedness of the State, County, City, Town, School District or Other Municipal Corporation; Providing for the Preparing and Posting of Lists of Such Qualified Electors; Providing for the Preparing and Furnishing of Poll-Books; Prescribing the Duties of the County Clerk and Clerk of the City, Town, School District or Other Municipal Corporation, and Repealing Acts or Parts of Acts in Conflict Herewith.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That from and after the passage and approval of this Act, only such registered electors of the state, county, city, town, school

district, or other municipal corporation, whose names appear upon the last preceding assessment roll shall be entitled to vote upon any proposal to create or increase any indebtedness of state, county, city, town, school district or other municipal corporation, required by law to be submitted to a vote of the electors thereof.

Section 2. The county clerk shall, immediately after the closing of the registration books of his county preceding such election, as provided by law, prepare lists of the registered electors of the county, city, town, school district, or other municipal corporation whose names appear upon the last preceding assessment roll, and shall prepare poll-books therefor as provided by Section 568, Revised Codes of Montana of 1921, and furnish copies thereof to the city, town, school district or municipal corporation in which such election is to be held for which he shall receive compensation as provided in Section 571, Revised Codes of Montana of 1921. Whenever the election is upon a proposal to create or increase the debt of the state or of a county, the County Clerk shall post lists of such electors as provided in Section 567, Revised Codes of Montana of 1921. When the election is upon a proposal to create or increase the indebtedness of a city, town, school district or other municipal corporation, the County Clerk shall deliver such lists to the clerk of the city, town, school district or other municipal corporation, holding such election, and it shall be his duty to post such lists in the manner provided in said Section 567. Provided, however, that nothing in this Act contained shall apply to or affect any such election called at the time of the passage and approval hereof.

Section 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its final passage and approval.

Approved March 7, 1923.

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### CHAPTER 133\*

An Act to Amend Sections 640, 641, 644, 645, 651 and 652 And to Repeal Sections 642 and 643 of the Revised Codes of Montana of 1921, All Relating to Primary Elections.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Sections 640, 641, 645, 651 and 652 of the Revised Codes of Montana of 1921 be, and the same are hereby amended so as to read as follows:

"Section 640. PETITIONS FOR NOMINATION TO BE FILED. Any person who shall desire to become a candidate for nomination to any office under this law shall send by registered mail, or otherwise, to the Secretary of State, county clerk, or city clerk, a petition for nomination, signed by himself, accompanied by the filing fee hereinafter provided for, and such petition shall be filed and shall be conclusive evidence for the purpose of this law that such elector has been a candidate for nomination by his party. All nominating petitions pertaining to congressional, state, or district offices to be voted for in more than one county, and for judges of the District Court shall be filed in the office of the Secretary of State; for county and district offices, to be voted for in one county only, and for township and precinct offices, shall be filed in the office of the county clerk; and for all city offices in the office of the City Clerk:

The fees required to be paid for filing such petitions shall be as follows:

For any office with a salary attached of One Thousand (\$1000.00)

\* Compare pages 36 to 41 inclusive, Election Law Pamphlet of 1921.

Dollars or less per annum, Ten (\$10.00) Dollars; except candidates for the State Senate and House of Representatives shall be Fifteen (\$15.00) Dollars.

For any office with a salary attached of more than One Thousand (\$1000.00) Dollars per annum, one per cent (1%) of total amount of annual salary;

For the office of County Commissioner in counties of the first class Forty (\$40.00) Dollars; in counties of the second class, Thirty-five (\$35.00) Dollars; in counties of the third class, Thirty (\$30.00) Dollars; in counties of the fourth class, Twenty-five (\$25.00) Dollars; in all other classes of counties, Ten (\$10.00) Dollars.

For any office the compensation of which consists of fees instead of a salary, Five (\$5.00) Dollars.

For state, county and precinct committeeman and delegates to national conventions no fees shall be required to be paid."

"Section 641. FORM OF PETITION FOR NOMINATION. The petition for nomination required by the preceding section shall be substantially in the following form:

To.....(name and title of officer with whom petition is to be filed).....and to the members of the.....party and the electors of the.....(State or counties of .....comprising the District or County or City, as the case may be) in the State of Montana;

I.....reside at.....and my postoffice address is..... I am a candidate of the.....party for the nomination for the office of.....at the primary nominating election to be held in the.....(State of Montana or District, or County or City).....on the.....day of....., 19....., and if I am nominated as the candidate of the.....party for such office I will accept the nomination and will not withdraw, and if I am elected I will qualify as such officer.

If I am nominated and elected I will, during my term of office (Here the candidate, in not exceeding one hundred words, may state any measure or principles he especially advocates, and the form in which he wishes it printed after his name on the nominating ballot, in not exceeding twelve words.)

.....  
Signature of Candidate for Nomination.

Every such petition shall be signed as above by the elector seeking such nomination."

"Section 645. REGISTER OF CANDIDATES. The Secretary of State, County Clerk and City Clerk shall keep a book entitled "Register of Candidates of Nomination at the Primary Nominating Election," and shall enter thereon on different pages of the book for different political parties subject to the provisions of this law, the title of the office sought and the name and residence of each candidate for nomination at the primary election; the name of his political party; the date of receiving the petition for nomination signed by the candidate; the words he wishes printed after his name on the nominating ballot, if any; and such other information as may aid him in arranging his official ballot for said primary nominating election. Immediately after the canvass of votes cast at a primary nominating election is completed, the county clerk, Secretary of State or city clerk, as the case may be, shall enter in his book marked "Register of Nominations," the date of such entry, the name of each candidate nominated, the office for which he is nominated, and the name of the party making the nomination."

#### Section 651. BALLOTS HOW ARRANGED, PRINTED AND VOTED.

At all primary elections there shall be a ballot made up of the several party tickets herein provided for, each of which shall be printed on a separate sheet of white paper, all of which shall be of the same size, and all shall be securely fastened together at the top and folded, provided that there shall be as many separate tickets as there are parties entitled to participate in said primary election.

The total number of tickets to be printed for each party for all voting precincts in each township (or if for a city election in a city having wards, for all voting precincts in each ward, or if for a city election in a city without wards, for all the voting precincts in the entire city) shall be divided into lots of twenty-five (25), such lots for each party ticket being numbered consecutively from one up. The names of all candidates for each party for each office shall be arranged by their surnames in alphabetical order, and the tickets in lot 1, for each party, shall be printed in such order. For lot 2, the first name appearing as a candidate for each office in lot 1, shall be placed at the bottom of the list of candidates for such office so that the names appearing first for all offices in lot 1 shall be placed last in lot 2, and the names appearing second for each office in lot 1 shall appear first in lot 2, and this method shall be followed for each lot in the order of their lot numbers until the names have been rotated through the total number of tickets for each party. The tickets belonging to each lot of each party, as they are printed, shall be kept separate from those in the other lots. The ballots for each precinct shall be made up in the following manner: For the first ballot one party ticket shall be taken from lot 1 of each party, for the second ballot one party ticket shall be taken from lot 2 of each party, and so continuing until the proper number of ballots are made up for each precinct, the intention being that in each precinct each ballot shall be made up of party tickets on which the names of candidates for each office shall be arranged in a different order than on the tickets making up the ballot immediately following.

If any elector write upon his ticket the name of any person who is a candidate for the same office upon some other ticket than that upon which his name is so written, this ballot shall be counted for such person only as a candidate of the party upon whose ticket his name is written, and in no case shall be counted for such person as a candidate upon any other ticket. In case any person is nominated as provided in this act, upon more than one ticket, he shall forthwith file with the secretary of state, county clerk or city clerk, a written declaration indicating the party designation under which his name is to be printed on the official ballot for the primary election, failing in which his name shall be printed upon the party ticket for which his nominating petition shall have been first filed, and no candidate shall have his name printed on more than one ticket. The ballots with the endorsements shall be printed on white paper in substantially the forms of the Australian Ballot, used in general elections, except that the candidates of each party shall be printed on a separate ticket or sheet. After preparing his ballot the elector shall detach the same from the remaining tickets and fold it so that its face will be concealed and the official stamp thereon seen. The remaining tickets attached together shall be folded in like manner by the elector who shall thereupon, without leaving the polling place, vote the marked ballot forthwith, and deposit the remaining tickets in the separate ballot box to be marked and designated as the blank ballot box. Immediately after the canvass, the judges of election shall without examination destroy the tickets deposited in the blank ballot box."

"Section 652. OFFICIAL AND SAMPLE BALLOTS—PREPARATION AND NUMBER. There shall be printed and furnished for each

election precinct a number of ballots equal to the number of voters registered in such voting precinct and entitled to vote at such primary nominating election.

If any political party shall desire sample ballots its political committee may order the same from the county clerk or city clerk who shall collect from such committee an amount sufficient to pay the cost of printing such sample ballots, and such sample ballots after being printed, shall, on the written order of the Clerk, be delivered to the committee ordering the same, but no such sample ballots shall be printed except on the order of the county or city clerk. The sample ballots shall be duplicate impressions of the official ballots to be voted, but in no case shall they be white, nor shall said sample ballots have perforated stubs, nor shall they have the same margin either at the top or sides or bottom as the official ballots have, or nearer thereto than twelve points, and the names of the candidates on the tickets composing the same shall not be rotated as required for the official ballots, but shall be impressions of the tickets belonging to lot 1 of each party."

Section 2. That Section 644 of the Revised Codes of Montana of 1921 be, and the same is hereby amended to read as follows:

"Section 644. TIME FOR FILING PETITIONS FOR NOMINATIONS. All petitions for nomination under this act for offices to be filed by the State at large or by any district consisting of more than one county, and nominating petitions for judges of district courts in districts consisting of a single county, shall be filed in the office of the Secretary of State not less than forty days before the date of the primary nominating election; and for other offices to be voted for in only one county, or district or city, every such petition shall be filed with the county clerk or city clerk as the case may be, not less than thirty days before the date of the primary nominating election."

Section 3. That Sections 642 and 643 of the Revised Codes of Montana of 1921 be, and the same are hereby repealed.

Section 4. This Act shall be in full force and effect from and after its passage and approval.

Approved March 8, 1923.

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### CHAPTER 139.\*

An Act Repealing Section 675 and 676, Revised Codes of Montana of 1921, Relating to the Printing of Campaign Books in the Primary Election for President.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Sections 675 and 676, Revised Codes of Montana of 1921 be, and the same are hereby repealed.

Section 2. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 3. This Act shall take effect and be in full force from and after its passage and approval.

Approved March 8, 1923.

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\* Compare page 49, Election Law Pamphlet of 1921.

## CHAPTER 151.\*

An Act to Amend Sections 717, 718 and 721 of Part 3, of the Political Code of Montana of 1921, Relating to Application of Absent Voter's Ballot.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Section 717, Part 3 of the Political Code, the Revised Codes of Montana, 1921, be and the same is hereby amended to read as follows.

“Section 717. FORM OF APPLICATION. Application for such ballots shall be made on a blank to be furnished by the County Clerk of the County of which the applicant is an elector, or the city or town clerk, if it be municipal, general, special or primary election, and shall be in substantially the following form:

“I, ..... , a duly qualified elector of the ..... Precinct, in the County of ..... and State of Montana, and am to the best of my knowledge and belief entitled to vote in such precinct in the next election, expecting to be absent from the said county on the day for holding such election, hereby make application for an official ballot to be voted by me at the said election.

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Post Office Address to which ballot is to be mailed

STATE OF ..... } ss.  
COUNTY OF .....

On this ..... day of ..... , personally appeared before me ..... , who being first duly sworn, deposes and says that he is the person who signed the foregoing application, that he has read and knows contents of same and knows to his own knowledge the matters and things therein stated are true.”

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This application must be subscribed by the applicant and sworn to before some officer authorized to administer oaths, and the application shall not be deemed complete without his affidavit.

Section 2. That Section 718 be, and the same is hereby amended to read as follows:

“Section 718. The voter making such application shall forward by mail or deliver in person the same to the County Clerk of the County in which he is registered and it shall be the duty of the said County Clerk to look up the applicant's registration card and compare the signature on the application for absent voter's ballot and the registration card if convinced the person making the application for absent voter's ballot and the person who signed the original registration card is one and the same person, he shall accept the same in good faith and deliver the ballot as provided in Section 719.”

Section 3. That Section 721 of Part 3 of the Political Code of Montana, 1921, be and the same is hereby amended so as to read as follows:

“Section 721. MARKING AND SWEARING TO BALLOT BY ELECTOR. Such voter shall make and subscribe the said affidavit before an officer authorized by law to administer oaths, and who has an official seal, and may do so at any place in the State of Montana, or in any other

\* Compare pages 57 to 59, Election Law Pamphlet of 1921.

state or territory of the United States, before any officer authorized by the laws of this state to take acknowledgements of instruments without the state, and such voter shall thereupon, in the presence of such officer and of no other person, mark such ballot or ballots, but in such manner that such officer cannot see the vote, and such ballot or ballots thereupon, in the presence of such officer, shall be folded by such voter so that each ballot shall be separate, and so as to conceal the vote, and shall be, in the presence of such officer, placed in such envelope securely sealed with mucilage and in addition thereto sealing wax in not less than two places thereon, the sealing wax to contain the impression of the official seal of the officer administering the oath. Said officer shall thereupon append his signature and official title and affix his seal at the end of said jurat and affidavit. Said envelope shall be mailed by such absent voter, postage prepaid, or delivered to the county or city or town clerk, as the case may be.

Section 4. All Acts and parts of Acts in conflict herewith are hereby repealed.

Section 5. This Act shall be in full force and effect from and after its passage and approval by the Governor.

Approved March 12, 1923.

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### CHAPTER 153.\*

An Act to Amend Sections 1224, 1225, 1226, 1228 and 1229 and to Repeal Sections 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241 and 1242, Revised Codes of Montana, 1921, All Relating to School District Bonds.

*Be it enacted by the Legislative Assembly of the State of Montana:*

Section 1. That Sections 1224, 1225, 1226 and 1229 of the Revised Codes of Montana, 1921, be, and the same are, hereby amended so as to read as follows:

“Section 1224. Issuance of Bonds—Submission of Question to Electors—Limit.

1. The board of school trustees of any school district within this state is hereby invested with the power and authority to issue and negotiate, on the credit of the school district, coupon bonds for any one or more of the following purposes:

(a) For the purpose of building, altering, enlarging, repairing, or acquiring by purchase, one or more schoolhouses in said district;

(b) For the purpose of furnishing and equipping one or more schoolhouses in said district;

(c) For the purpose of purchasing land for a schoolhouse site or sites;

(d) For the purpose of constructing or acquiring by purchase a teacherage in said district and purchasing necessary land therefor; and

(e) For the purpose of providing the necessary funds to pay and redeem maturing, redeemable or optional bonds when there is not sufficient money to the credit of the school district applicable to the redemption and payment of said bonds.

2. The board of trustees of any school district within this state shall, whenever a majority of the trustees shall so decide after being petitioned so to do in the manner provided by Section 1252, submit to the electors of the district the question whether the board shall be authorized to issue coupon bonds to a certain amount, not to exceed three per centum of the assessed value of the property upon which taxes are levied and

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\* Compare pages 171 to 173 inclusive, Election Law Pamphlet of 1921.

paid in said district exclusive of indebtedness incurred before the passage of this act; providing that the total amount of indebtedness shall not exceed three per centum of the full assessed value; which such coupon bonds shall bear interest at a rate not to exceed six per centum (6%) per annum, payable semi-annually on the first days of January and July in each year, and shall be paid and redeemed in equal annual installments, the amount thereof to be paid and redeemed in each year to be determined by dividing the total amount of the bonds to be issued by the total number of years throughout which installments are to be paid; provided, that if the date of issue of the bonds shall be prior to the date of the annual tax levies in the year in which the bonds are issued the first interest on all bonds shall be paid and the first installment of bonds shall be paid on the first day of January in the year immediately following the year in which the bonds are issued, but if the date of issue of the bonds shall be after the date of the annual tax levies in the year in which the bonds are issued then the first interest on all bonds shall be paid and the first installment of bonds shall be paid and redeemed on the first day of January in the second year following the year in which the bonds are issued; and provided further, that no bonds shall be issued for a longer period than twenty years, and that all bonds remaining unpaid may be paid and redeemed at any time after the expiration of five years from their date of issue, provided such time and option be stated upon the face of such bonds.

Upon the passing of a resolution by the board of trustees, submitting to the qualified electors of the district the question of the issuance of bonds, the clerk of such school district shall, not less than fifteen days before the date specified for such election, post notices in three public places in said district, and in incorporated cities and towns at least one notice in each voting precinct, which notices must specify the time and place of election, the hours during which the polls will be open, and the amount, the maximum rate of interest, time payable, time redeemable, and the purpose of the proposed bond issue. Such notice of election shall be substantially in the following form:

#### NOTICE OF SPECIAL BOND ELECTION.

Notice is hereby given by the undersigned clerk of School District No. .... of ..... County, State of Montana, that under and pursuant to a certain resolution duly adopted at a meeting of the trustees of said school district held on the ..... day of ..... 19....., an election of the qualified electors of School District No. .... of ..... County, State of Montana, will be held at ..... on the ..... day of ..... 19....., for the purpose of voting upon the question of whether the board of trustees shall be authorized to issue coupon bonds to the amount of ..... Dollars, (\$.....), bearing interest at a rate not exceeding ..... per cent per annum, payable semi-annually, said bonds to be payable (here state amounts and time payable, as for example, \$10,000 on January 1st, 1920, and \$10,000 on January 1st, each year thereafter until all bonds are paid) and redeemable at any time after five years from date of issue, for the purpose of .....

The polls will be open from ..... o'clock ..... M. until ..... o'clock ..... M.

Dated and posted this ..... day of ..... 19.....

..... Clerk of School District No. ....

3. Should the trustees of any school district in which bonds have heretofore been issued to any amount desire to submit to the electors of

the district the question as to whether additional bonds shall be issued, they may do so, but no such bonds shall be issued unless a majority of the votes cast at such election shall be cast in favor of such issue of additional bonds; and in no case shall the whole issue of bonds exceed three per centum of the per centum of the assessed value of the property upon which taxes are levied and paid within said school district, exclusive of indebtedness incurred before the passage of this act; providing that the total amount of indebtedness shall not exceed three per centum of the full assessed value, and nothing in this act shall be construed to prohibit the issuance of refunding bonds to take up outstanding indebtedness incurred before the passage of this act without first submitting the question to a vote of the taxpayers in said district."

"Section 1225. Manner of Holding Elections—Ballots—Forms of Bonds.

1. Such election shall be held in the manner prescribed for the election of school trustees.

2. The ballots shall be substantially in the following form:

"Shall coupon bonds be issued and sold to the amount of.....  
.....Dollars (\$.....), bearing not to exceed.....  
per cent interest, payable (describe in same manner as in notice of election) and redeemable at any time after five years from date of issue, for the purpose (state purpose in same manner as stated in notice of election)."

BONDS—Yes.

BONDS—No.

Each elector shall prepare his ballot by putting an "X" before 'Bonds—Yes' in the vacant square provided therefor if he wishes to vote for the bonds or before 'Bonds—No' in the vacant square provided therefor if he wishes to vote against the bonds.

The foregoing sentence containing instructions for the marking of the ballot shall also be printed, typewritten or written upon the ballot at the top thereof.

3. Resolution for Issuance of Bonds. If a majority of the votes cast at such election are in favor of the issuance of such bonds, the board of school trustees shall, within sixty days from the date of such election, pass a resolution providing for the issuance of such bonds and prescribing the form thereof; such bonds shall bear the signature of the chairman of the board of trustees and shall be signed by the clerk of such school district, and the coupons attached to such bonds shall be signed by said chairman and clerk, provided, a facsimile of the signature of the chairman and clerk may be affixed to the coupons when so recited in the bonds, and the corporate seal of the school district shall be attached to each bond. Each bond, so issued, shall be registered by the county treasurer in a book provided for that purpose, which shall show the number and amount of each bond, its date, date payable, date redeemable, and the person to whom the same is issued or sold; and the said bonds shall be sold by the trustees as hereinafter provided."



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